(27)

3/20/07

No. 06-427

In the Supreme Court of the United States

TENNESSEE SECONDARY SCHOOL ATHLETIC ASSOCIATION,
PETITIONER,
v.
BRENTWOOD ACADEMY,
RESPONDENT.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

JOINT APPENDIX

Counsel for Petitioner

MAUREEN E. MAHONEY
Counsel of Record
J. SCOTT BALLENGER
ALEXANDER MALTAS
NATHAN H. SELTZER
LATHAM & WATKINS LLP
555 11TH STREET, N.W.
SUITE 1000
WASHINGTON, DC 20004
(202) 637-2200
(202) 637-2201 (FAX)

Counsel for Respondent

H. LEE BARFIELD
Counsel of Record
W. BRANTLEY PHILLIPS, JR.
BASS, BERRY AND SIMS, P.L.C.
AMSOUTH CENTER
315 DEADERICK STREET
SUITE 2700
NASHVILLE, TN 37238
(615) 742-6200
(615) 742-6293 (FAX)

Additional Counsel Listed on Inside Cover

PETITION FOR CERTIORARI FILED SEPTEMBER 25, 2006
CERTIORARI GRANTED JANUARY 5, 2007

ADDITIONAL COUNSEL FOR PETITIONER

RICHARD L. COLBERT
COLBERT & WILBERT, PLLC
108 FOURTH AVENUE
SOUTH SUITE 209
FRANKLIN, TN 37064
(615) 790-6610

THOMAS R. MCCOY
VANDERBILT LAW SCHOOL
131 21ST AVENUE
SUITE 207
NASHVILLE, TN 37203
(615) 322-2711

ADDITIONAL COUNSEL FOR RESPONDENT

JAMES F. BLUMSTEIN
VANDERBILT UNIVERSITY
SCHOOL OF LAW
131 21ST AVENUE SOUTH
NASHVILLE, TN 37203
(615) 322-0045

JOINT APPENDIX
TABLE OF CONTENTS

Page

United States Court of Appeals for the Sixth Circuit Relevant Docket Entries: *Brentwood Academy v. Tenneessee Secondary School Athletic Association, et al.*, No. 98-6113 1

United States Court of Appeals for the Sixth Circuit Relevant Docket Entries: *Brentwood Academy v. Tenneessee Secondary School Athletic Association, et al.*, Nos. 03-5245, 03-5278 16

United States District Court for Middle District of Tennessee Relevant Docket Entries: *Brentwood Academy v. Tennessee Secondary School Athletic Association, et al.*, No. 3:97-cv-01249 32

Excerpts from various memoranda to Members, State Board of Education (SA[1] 142 to 149) 89

Excerpts from Minutes of Tennessee State Board of Education (SA 157, 161-164) 95

Letter to E. Krenson from R. Carter re Father Ryan High School (Mar. 18, 1991) (CA 3491) 113

Plaintiff's Exhibit 83 (Letter from R. Carter to B. Brown re: possible recruiting incident (April 29, 1992) (CA 1835 to 1836) 114

---

[1] "SA" refers to the Supreme Court Joint Appendix filed in 2000. "CA" refers to the Court of Appeals Joint Appendix filed in the Sixth Circuit.

1992 Tennessee State Board of Education Promulgated Administrative Rule 0520-1-2-08 (June 29, 1992) (SA 299) 117

Warrior Letter (July 6, 1995), Respondent's Brief in Opposition, Appendix at 2a 118

Plaintiff's Exhibit 8 (Letter from C. Flatt re spring football practice) (April 23, 1997) (CA 1829) 119

Plaintiff's Exhibit 9 (Memo/Fax from C. Flatt to R. Carter re: responses to TSSAA questions (May 29, 1997) (CA 1839 to 1841) 120

Plaintiff's Exhibit 84 (Memo from R. Carter to B. Brown re: question for information (May 30, 1997) (CA 1842 to 1843) 124

Defendants' Exhibit 71 (Memo from B. Brown to R. Carter (rec'd June 13, 1997) (CA 1851 to 1854) 128

TSSAA Constitution (June 26, 1997) (CA 1903 to 1914) 134

TSSAA Bylaws (July 14, 1997) (CA 1915 to 1942) 145

Defendants' Exhibit 72 (Letter from R. Carter to B. Brown (July 3, 1997) (CA 1861 to 1865) 204

Defendants' Exhibit 73 (Letter from B. Brown to R. Carter w/enclosures (July 15, 1997) (CA 1868 to 1879) 212

Brentwood Academy Membership Agreements (1996/1997) (CA 1961 to 1962) 230

Brentwood Academy Compliance Statements on Recruiting (1996/1997) (CA 1963 to 1964) 232

Plaintiff's Exhibit 86 (Letter from R. Carter to B. Brown re: TSSAA rules violations and sanctions (July 29, 1997) (CA 1844 to 1847) 238

Excerpts from Hearing Transcript (Aug. 13, 1997) 245

Letter to B. Brown from R. Carter re August 13, 1997 hearing (Aug. 14, 1997) 254

Excerpts from Hearing Transcript (Aug. 23, 1997) 259

Plaintiff's Exhibit 88 (TSSAA sanctions letter from M. Reed to B. Brown (Aug. 23, 1997) (CA 1830 to 1831) 269

Excerpt from TSSAA Website Listing Ex Officio Members of Board of Control and Legislative Council (Feb. 10, 1998) (SA 199) 272

Combined Stipulations (excerpts) (June 1, 1998) (CA 125 to 129) 273

Affidavit of Jerome Sailors (June 26, 1998) (SA 210 to 213) 279

Affidavit of Ronnie Carter (June 29, 1998), with Exhibit A "History of Recruiting Rule" (SA 200 to 209) 283

Second Affidavit of Melna Van Beber (July 14, 1998) (SA 217 to 219) 291

Defendants' Responses to Plaintiff's First Requests for Admission (June 21, 2002) (excerpts) 293

Defendants' Third Supplemental Responses to Plaintiff's Second Set of Interrogatories (excerpts) (Nov. 15, 2002) 296

Excerpts from Trial Transcript, Vol. 1 (Dec. 11, 2002) 300

Excerpts from Trial Transcript, Vol. 2 (Dec. 12, 2002) 304

Excerpts from Trial Transcript, Vol. 3 (Dec. 13, 2002) 326

Excerpts from Trial Transcript, Vol. 4 (Dec. 16, 2002) 354

Excerpts from Trial Transcript, Vol. 5 (Dec. 17, 2002) 370

Excerpts from Trial Transcript, Vol. 6 (Dec. 18, 2002) 393

Excerpts from Trial Transcript, Vol. 7 (Dec. 19, 2002) 414

Excerpts from Trial Transcript, Vol. 8 (Dec. 20, 2002) 421

Excerpts from Trial Transcript, Vol. 9 (Dec. 30, 2002) 447

Excerpts from Trial Transcript, Vol. 10 (Dec. 31, 2002) 470

ITEMS PREVIOUSLY REPRODUCED

In accordance with Supreme Court Rule 26.1, the following items have been omitted in printing this joint appendix because they appear on the following pages of the appendix to the Petition for a Writ of Certiorari (Sept. 25, 2006)

Opinion, *Brentwood Academy v. Tennessee Secondary School Athletic Association*, No. 98-6113 (6th Cir. Aug. 23, 2001) 1a

Memorandum Opinion, *Brentwood Academy v. Tennessee Secondary School Athletic Association et al.*, No. 3:97-cv-01249 (M.D. Tenn. Jan. 13, 2003) 25a

Opinion, *Brentwood Academy v. Tennessee Secondary School Athletic Association, et al.*, Nos. 03-5245/5278 (6th Cir. Mar. 17, 2006) 78a

Order Denying Rehearing, *Brentwood Academy v. Tennessee Secondary School Athletic Association, et al.*, Nos. 03-5245/5278 (6th Cir. June 27, 2006) 154a

RELEVANT DOCKET ENTRIES

U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 98-6113

8/21/98 Civil Case Docketed. Notice filed by Appellant TN Secondary School, Appellant Ronnie Carter. Transcript needed: y • (yh)

8/21/98 Appellant MOTION filed to expedite appeal. Motion filed by Richard L. Colbert and Charles Hampton White for Appellant Ronnie Carter, Appellant TN Secondary School. Certificate of service date 8/7/98 [98-6113] (yh)

8/25/98 BRIEFING LETTER SENT setting briefing schedule: appellant brief due 9/17/98; appellee brief due 10/13/98; reply brief due 10/27/98; appendix due 11/2/98; final briefs due 11/16/98. . (yh)

* * *

8/26/98 TRANSCRIPT ORDER FORM filed by Richard L. Colbert for Appellant Ronnie Carter, Appellant TN Secondary School: Transcript not needed. [98-6113] [1790733-1] (blh)

* * *

9/21/98 PROOF BRIEF filed by Richard L. Colbert for Appellants Ronnie Carter, TN Secondary School. Certificate of service date 9/17/98. Number of Pages: 53. [98-6113] • (teb)

9/21/98 Request to require oral argument filed by Richard L. Colbert for Appellants Ronnie Carter, TN Secondary School [98-6113] (teb)

9/30/98 MOTION filed to allow National Federation of State High School Associations to become an amicus curiae . Motion filed by John J. Kitchin for Natl Fedn St High. Certificate of service date 9/24/98 . [98-6113] (yh)

* * *

9/30/98 AMICUS BRIEF TENDERED. Received from John J. Kitchin for Natl Fedn St High [98-6113] . Certificate of service date 9/24/98 (yh)

10/15/98 PROOF BRIEF filed by William Scott Sims, James F. Blumstein and G. Thomas Nebel for Appellee Brentwood Academy. Certificate of service date 10/13/98. Number of Pages: 119. [98-6113] • (teb)

10/15/98 Request to require oral argument filed by William Scott Sims, James F. Blumstein and G. Thomas Nebel for Appellee Brentwood Academy [98-6113] (teb)

10/15/98 BRIEFING LETTER SENT requesting brief corrections from William Scott Sims, James F. Blumstein, G. Thomas Nebel because of summary of argument, font, pagination. Corrections due: 10/29/98, resetting briefing schedule: appellee brief now due 10/29/98; appendix now due 11/19/98; appellant final brief due now 12/10/98; appellee final brief now due 12/10/98 [98-6113] (teb)

11/2/98 Corrected appellee proof brief filed by William Scott Sims, James F. Blumstein, G. Thomas Nebel. Copies: 1. Certificate of Service date 10/29/98 [98-6113] (teb)

11/13/98 AMICUS BRIEF TENDERED. Received from Steven L. Craig for OH High School Ath, Edmund J. Sikorski for MI High School [98-6113] . Certificate of service date 11/12/98 Corrections to be made: ; (yh)

11/16/98 PROOF REPLY BRIEF filed by Richard L. Colbert and Charles Hampton White for Appellants Ronnie Carter, TN Secondary School. Certificate of service date 11/12/98 [98-6113] (teb)

11/17/98 MOTION filed to allow KY High School Athletic Assoc to become an amicus curiae . Motion filed by Danny C. Reeves for KY High School. Certificate of service date 11/16/98 . [98-6113] (yh)

11/17/98 MOTION filed to allow MO State High School Assoc to become an amicus curiae . Motion filed by Mallory V. Mayse for MO High School. Certificate of service date 11/16/98 . [98-6113] (yh)

11/18/98 AMICUSBRIEF TENDERED. Received from Danny C. Reeves for KY High School [98-6113] . Certificate of service date 11/16/98 Corrections to be made: ; (yh)

11/18/98 AMICUS BRIEF TENDERED. Received from Mallory V. Mayse for MO High School [98-6113] . Certificate of service date 11/16/98 Corrections to be made: ; (yh)

11/23/98 APPENDIX filed by Charles Hampton White for Appellants Ronnie Carter, TN Secondary School. Copies: 5 (8 Volumes). Certificate of service date 11/19/98 [98-6113] (ds)

11/27/98 Appellee RESPONSE opposition filed regarding a motion to allow amicus curiae to appear filed by Danny C. Reeves, Mallory V. Mayse, and John J. Kitchin . Response from H. Lee Barfield for Appellee Brentwood Academy, G. Thomas Nebel for Appellee Brentwood Academy. Certificate of service date 11/24/98 [98-6113] (yh)

12/3/98 Appellant REPLY in response to the opposition to motion to file amicus briefs. Response from Richard L. Colbert for Appellant Ronnie Carter, Appellant TN Secondary School, Charles Hampton White for Appellant Ronnie Carter, Appellant TN Secondary School . Certificate of service date 12/2/98 . [98-6113] (yh)

12/7/98 Memorandum in support of motion by Missouri High School Activities Association to appear as amicus curiae filed by Mallory V. Mayse. Certificate of service date 12/3/98 [98-6113] (yh)

* * *

12/9/98 MOTION filed to allow Florida High School Activities Assocication to become an amicus curiae . Motion filed by Leonard E. Ireland for Fl High School Assoc. Certificate of service date 12/8/98 . [98-6113] (yh)

12/9/98 AMICUS BRIEF TENDERED. Received from Leonard E. Ireland for Fl High School Assoc [98-6113] . Certificate of service date 12/8/98 (yh)

12/10/98 MOTION filed to allow Illinois High School Assoc to become an amicus curiae . Motion filed by Terrence E. Kiwala for Il High School Assoc. Certificate of service date 12/9/98 . [98-6113] (yh)

12/10/98 AMICUS BRIEF TENDERED. Received from Terrence E. Kiwala for Il High School Assoc [98-6113] . Certificate of service date 12/9/98 (yh)

12/14/98 FINAL BRIEF filed by William Scott Sims, James F. Blumstein, H. Lee Barfield and G. Thomas Nebel for Appellee Brentwood Academy. Copies: 7. Certificate of service date 12/10/98. Number of Pages: 121. [98-6113] (teb)

12/14/98 FINAL BRIEF filed by Richard L. Colbert and Charles Hampton White for Appellants Ronnie Carter, TN Secondary School. Copies: 7. Certificate of service date 12/10/98. Number of Pages: 58. [98-6113] (teb)

12/14/98 FINAL REPLY BRIEF filed by Richard L. Colbert and Charles Hampton White for Appellants Ronnie Carter, TN Secondary School.

Copies: 7 Certificate of service date 12/10/98. Number of Pages: 31. [98-6113] (teb)

12/21/98 Appellee RESPONSE in opposition to the motion to allow Florida and Illinois High School Athletic Assoc, Kentucky, Michigan, Missouri and Ohio High School Athletic Associations to appear as amicus curiae. Response filed by H. Lee Barfield for appellee. [1855786-1] ; Certificate of service date 12/17/98 [98-6113] (yh)

12/29/98 Appellant REPLY to appellees' opposition to the motions to allow amicus to appeal previously filed by Terrence E. Kiwala,et al. Response from Richard L. Colbert and Charles Hampton White for Appellants. Certificate of service date 12/28/98 . [98-6113] (yh)

2/9/99 Oral argument date set for April 23, 1999 in court room 607. Notice of argument sent to counsel. [98-6113] (rld)

4/15/99 ORDER filed granting motion to allow amicus curiae to appear [1855786-1] filed by Terrence E. Kiwala Leonard E. Ireland Jr., Danny C. Reeves, Mallory V. Mayse and John J. Kitchin [98-6113] . . (yh)

4/15/99 BRIEF filed by Steven L. Craig for Amicus Curiae OH High School Ath, Edmund J. Sikorski for Amicus Curiae MI High School. Copies 5. Certificate of service date 11/12/98 . Number of Pages: . [98-6113] (yh)

4/15/99 BRIEF filed by Terrence E. Kiwala for Amicus Curiae Il High School Assoc. Copies 5. Certificate of service date 9/12/98 [98-6113] (yh)

4/15/99 BRIEF filed by Mallory V. Mayse for Amicus Curiae MO High School. Copies 5. Certificate of service date 12/16/98 . Number of Pages: . [98-6113] (yh)

4/15/99 BRIEF filed by Leonard E. Ireland for Amicus Curiae Fl High School Assoc. Copies 5. Certificate of service date 12/8/98 [98-6113] (yh)

4/15/99 BRIEF filed by Danny C. Reeves for Amicus Curiae KY High School. Copies 5. Certificate of service date 11/16/98 . . [98-6113] (yh)

4/15/99 BRIEF filed by John J. Kitchin for Amicus Curiae Natl Fedn St High. Copies 5. Certificate of service date None . Number of Pages: . [98-6113] (yh)

4/23/99 CAUSE ARGUED on 4/23/99 by Charles Hampton White for Appellant Ronnie Carter, Appellant TN Secondary School, James F. Blumstein for Appellee Brentwood Academy before Judges Guy, Suhrheinrich, Gilman. [98-6113] (me)

4/30/99 Appellee MOTION filed to file supplemental brief . Motion filed by William Scott Sims, James F. Blumstein and H. Lee Barfield for Appellee Brentwood Academy. Certificate of service date 4/29/99 . [98-6113] (yh)

5/6/99 Appellant RESPONSE opposition filed regarding a motion to file supplemental brief previously filed by William Scott Sims, James F. Blumstein, and H. Lee Barfield II . Response from Richard L. Colbert for Appellant Ronnie Carter, Appellant TN Secondary School, Charles Hampton for Appellant Ronnie Carter, Appellant TN Secondary School Certificate of service date 5/4/99 . [98-6113] (yh)

5/18/99 RULING granting motion to file supplemental brief [1937090-1] filed by William Scott Sims, James F. Blumstein, H. Lee Barfield II [98-6113] . (yh)

5/18/99 Supplemental brief filed by James F. Blumstein for Appellee Brentwood Academy, H. Lee Barfield for Appellee Brentwood Academy, G. Thomas Nebel for Appellee Brentwood Academy. Copies: 4. Certificate of service date 4/29/99 . Number of Pages: 40 Includes exhibits [98-6113] (yh)

* * *

6/21/99 OPINION filed: The district court's grant of summary judgment in favor of Brentwood is REVERSED: The injunction is VACATED and the case is remanded for further proceedings consistent with this opinion. decision for publication pursuant to local rule 206 [98-6113]. Ralph B. Guy, Richard F. Suhrheinrich, Ronald L. Gilman, Authoring Judges . (yh)

6/21/99 JUDGMENT: VACATED, REVERSED and remanded . (yh)

* * *

7/6/99 PETITION for en banc rehearing filed by William Scott Sims , James F. Blumstein and G. Thomas Nebel for Appellee Brentwood Academy. Certificate of service date 7/2/99. [98-6113] (blh)

7/21/99 LETTER SENT by blh to Richard L. Colbert for Appellants Ronnie Carter, TN Secondary School notifying that party is directed to respond to a petition for en banc rehearing [1974689-1] filed by William Scott Sims, James F. Blumstein and G. Thomas Nebel. Response due by 8/4/99. [98-6113] . (blh)

7/23/99 MOTION filed to allow Chester E. Finn and Daniel Casse leave to file an amicus brief in support of appellee's petition for rehearing en banc. Motion filed by Daniel Casse for Daniel Casse, Chester E. Finn for Chester E. Finn. Certificate of service date 7/22/99. [98-6113] (blh)

7/23/99 TENDERED : brief of amicus curiae in support of appellee's petition for rehearing en banc from Daniel Casse for Daniel Casse and Chester E. Finn for Chester E. Finn [98-6113] (blh)

7/29/99 Appellant RESPONSE in opposition to motion of Chester E. Finn and Daniel Casse for leave to file an amicus brief in support of appellee's petition for rehearing en banc [1984674-1] filed by Daniel Casse and Chester E. Finn Jr. . Response from Richard L. Colbert and Charles Hampton White for Appellants Ronnie Carter, TN Secondary

School. Certificate of service date 7/27/99. [98-6113] (blh)

8/2/99 ORDER filed denying as untimely the motion for leave to file an amicus brief in support of appellee's petition for rehearing en banc [1984674-1] filed by Daniel Casse, Chester E. Finn Jr. pursuant to Rule 29(e), Federal Rules of Appellate Procedure. The amicus brief submitted by Finn and Casse is not accepted for filing. [98-6113] . Entered by order of the court. (blh)

8/4/99 RESPONSE to a petition for en banc rehearing [1974639-1] filed by William Scott Sims, James F. Blumstein, and G. Thomas Nebel. Response filed by Richard L. Colbert and Charles Hampton White for Appellants Ronnie Carter, TN Secondary School. Certificate of service date 8/3/99. [98-6113] (blh)

8/6/99 ADDITIONAL CITATION in support of the petition for rehearing en banc filed by Wm. S. Sims for Appellee Brentwood Academy. Certificate of service date 8/5/99 [98-6113] (blh)

8/9/99 Appellant RESPONSE in opposition filed regarding the document filed 8/6/99 as an additional citation. Response from Richard L. Colbert for Appellants Ronnie Carter, TN Secondary School. Certificate of service date 8/6/99. [98-6113] (blh)

8/12/99 Appellee MOTION filed to reconsider order dated 8/2/99 denying as untimely the motion filed by Daniel Casse and Chester E. Finn, Jr., for leave to

file an amicus brief in support of appellee's petition for rehearing en banc. Motion filed by William Scott Sims , James F. Blumstein and G. Thomas Nebel for Appellee Brentwood Academy. Certificate of service date 8/11/99 . [98-6113] (blh)

8/18/99 ORDER filed denying motion to reconsider order of 8/2/99 denying as untimely the motion filed by Daniel Casse and Chester E. Finn, Jr. for leave to file an amicus brief in support of appellee's petition for rehearing en banc [1995718-1] filed by William Scott Sims, James F. Blumstein and G. Thomas Nebel [98-6113]. Entered by order of the court. (blh)

8/30/99 ORDER filed denying petition for en banc rehearing [1974689-1] filed by William Scott Sims, James F. Blumstein, and G. Thomas Nebel [98-6113]. Ralph B. Guy, Richard F. Suhrheinrich, Ronald L. Gilman, Circuit Judges. Judge Merritt separate statement on denial of en banc in which Judge Clay joined. (blh)

9/8/99 MANDATE ISSUED with no cost taxed [98-6113] (yh)

12/8/99 U.S. Supreme Court notice filed regarding petition for writ of certiorari filed by Appellee Brentwood Academy . Filed in the Supreme Court on 11-29-99 , Supreme Ct. case number: . [98-6113] (swh)

2/25/00 U.S. Supreme Court letter filed: Motion of Memphis University School, et al. for leave to file a brief as amicus curiae is granted;the motion of petition for summary refersalis denied; petition for

writ of certiorari granted [2063033-1] filed by Brentwood Academy [98-6113] . Filed in the Supreme Court on 02-22-00 . (swh)

7/14/00 U.S. Supreme Court letter filed requesting the certified record of proceedings in the U.S. Court of Appeals for the Sixth Circuit and transission of the distrit court record to the Supreme Court . [98-6113] (swh)

2/22/01 U.S. Supreme Court opinion filed: REVERSED [98-6113] and REMANDED [98-6113] . Filed in the Supreme Court on 02-20-01 . (swh)

3/26/01 U.S. Supreme Court judgment filed : REVERSED and REMANDED. Costs to be recovered by Brentwood Academy in the amount of $1,909.00. [98-6113] . Filed in the Supreme Court on 03-22-01 . (swh)

4/17/01 LETTER SENT by Clerk to Charles Hampton White and James F. Blumstein directing each of them to file a supplemental brief (original & 4 copies) not to exceed 5,000 words with this office not later than the close of business on Monday, May 7, 2001. supplemental brief . (yh)

4/30/01 Joint MOTION filed to extend time to file brief . Motion filed by Richard L. Colbert for Appellants, James F. Blumstein and Appellee [98-6113] (yh)

5/3/01 RULING granting motion to extend time to file supplemental briefs filed by Richard L. Colbert and James F. Blumstein The supplemental briefs are now due now 6/11/01. (yh)

6/11/01 Supplemental brief filed by James F. Blumstein, H. Lee Barfield and G. Thomas Nebel for Appellee Brentwood Academy. Copies: 7. Certificate of service date 6/11/01. [98-6113] (yh)

6/11/01 Supplemental brief filed by Richard L. Colbert for Appellants Ronnie Carter, TN Secondary School. Copies: 4. Certificate of service date 6/8/01 . [98-6113] (yh)

6/12/01 Appellee MOTION filed to allow the parties to present additional oral argument in connections with the supplemental briefs on remand. [2371997-1] . Motion filed by H. Lee Barfield for Appellee Brentwood Academy. Certificate of service date 6/11/01 . [98-6113] (yh)

* * *

7/5/01 LETTER SENT by yh granting motion for oral argument in connectioni with the filing of the supplemental briefs filed by H. Lee Barfield II [98-6113] (yh)

7/19/01 CAUSE ARGUED on 7/19/01, (via telephone), by Richard L. Colbert for Appellant Ronnie Carter, Appellant TN Secondary School, James F. Blumstein for Appellee Brentwood Academy before Judges Guy, Suhrheinrich, Gilman. [98-6113] (lkm)

8/2/01 ADDITIONAL CITATIONS filed by Richard L. Colbert for Appellants Ronnie Carter and TN

Secondary School. Certificate of service date 7/31/01 [98-6113] (yh)

8/7/01 Appellee RESPONSE in opposition to appellant's additional citations. Response from James F. Blumstein and H. Lee Barfield. Certificate of service date 8/6/01 [98-6113] (yh)

8/23/01 OPINION filed: REVERSED the judgment of the district court and remanded for further proceedings consistent with this opinion, pursuant to U.S. Supreme Court Judgment, decision for publication pursuant to local rule 206 [98-6113] Ralph B. Guy, Richard F. Suhrheinrich, Circuit Judges, Ronald L. Gilman, Authoring Judge. (yh)

8/23/01 JUDGMENT FILED: REVERSED and remanded . (yh)

9/6/01 ADDITIONAL PETITION for en banc rehearing filed by James F. Blumstein for Appellee Brentwood Academy. Certificate of service date 9/5/01. [98-6113] (blh)

10/29/01 ORDER filed denying petition for en banc rehearing [2419546-1] filed by James F. Blumstein [98-6113]. Ralph B. Guy, Richard F. Suhrheinrich, Ronald L. Gilman, Circuit Judges. (blh)

12/3/01 MANDATE ISSUED with no cost taxed [98-6113] (yh)

2/4/02 U.S. Supreme Court notice filed regarding petition for writ of certiorari filed by Appellee Brentwood Academy . Filed in the Supreme Court on 01 ,

Supreme Ct. case number: 01-28-02 . [98-6113] (swh)

4/12/02 U.S. Supreme Court letter filed denying petition for writ of certiorari [2498201-1] filed by Brentwood Academy [98-6113] . Filed in the Supreme Court on 04-01-02 . (swh)

U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT

NOS. 03-5245, 03-5278

2/25/03 Civil Case Docketed. Notice filed by Appellants TSSAA, Ronnie Carter. Transcript needed: y • (mcp) [03-5245]

2/26/03 Mediation Office is involved in this appeal. [03-5245] (trm) [03-5245]

* * *

3/5/03 Civil Case Docketed. Notice filed by Appellee Cross-Appellant Brentwood Academy. Transcript needed: y • (mcp) [03-5278]

3/6/03 TRANSCRIPT ORDER FORM filed by Richard L. Colbert for Appellant Ronnie Carter, Appellant TSSAA: court reporter Jim Spence, transcript ordered on 03/03/03 [03-5245] [2705524-1] response due by 3/17/03 for Jim Spence [03-5245] (blh) [03-5245]

* * *

3/10/03 PRE-ARGUMENT STATEMENT filed by Richard L. Colbert for Appellants Ronnie Carter, TSSAA in 03-5245. [03-5245] (mcp) [03-5245]

3/10/03 Mediation Office is involved in this appeal. [03-5278] (trm) [03-5278]

* * *

3/19/03 PRE-ARGUMENT STATEMENT filed by James

F. Blumstein for Appellee Cross-Appellant Brentwood Acad in 03-5278 [03-5278] (mcp) [03-5278]

3/19/03 TRANSCRIPT ORDER FORM filed by H. Lee Barfield for Appellee Cross-Appellant Brentwood Acad: Transcript on file in district court. [03-5278] [2712672-1] (blh) [03-5278]

* * *

4/25/03 TRANSCRIPT ORDER completed by court reporter Jim Spence for Document [2705524-1] transcript involving, Richard L. Colbert, Jim Spence. Number of pages: 2969 (10 vols) filed in DC on 4/23/03. [03-5245] (blh) [03-5245]

5/12/03 Mediation Office is no longer involved in this appeal at this time. (lmn) [03-5245 03-5278]

5/23/03 BRIEFING LETTER SENT setting cross appeal briefing schedule: first proof brief (TSSAA & Carter) due 7/2/03 ; second proof brief (Brentwood) due 8/1/03 ; ; third proof brief (TSSAA & Carter) due 9/2/03 ; fourth proof brief (Brentwood) due 9/16/03 ; appendix due 9/23/03 ; final briefs due 10/14/03 ; [03-5245, 03-5278] . (mcp) [03-5245 03-5278]

* * *

6/3/03 LETTER SENT by mcp granting motion to extend briefing [2755793-1] filed by Richard L. Colbert. Resetting cross appeal briefing schedule: first proof brief (TSSAA & Carter) due 8/1/03 ;

second proof brief (Brentwood) due 9/2/03 ; ; third proof brief due 10/2/03 ; fourth proof brief due 10/16/03 ; appendix due 10/23/03 ; [03-5245, 03-5278] first final briefs now due 11/13/03 ; (mcp) [03-5245 03-5278]

* * *

6/20/03 LETTER SENT by mcp granting motion to extend briefing [2766265-1] filed by W. Brantley Phillips Jr. Resetting cross appeal briefing schedule: first proof brief still due 8/1/03 ; second proof brief due 11/3/03 ; third proof brief due 12/3/03 ; fourth proof brief due 12/17/03 ; appendix due 12/24/03 ; [03-5245, 03-5278] final briefs now due 1/14/04 (mcp) [03-5245 03-5278]

* * *

8/13/03 LETTER SENT by mcp resetting cross appeal briefing schedule: first proof brief now due 8/27/03 ; second proof brief due 11/3/03 ; third proof brief due 12/3/03 ; fourth proof brief due 12/17/03 ; appendix due 12/24/03 ; [03-5245, 03-5278] final briefs now due 1/14/04 ; (mcp) [03-5245 03-5278]

9/2/03 FIRST PROOF BRIEF filed by W. Gregory Miller, John Christopher Anderson and Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter & TSSAA. Certificate of Service date 8/27/03. Number of Pages: 84. [03-5245, 03-5278] (lak) [03-5245 03-5278]

9/2/03 Request to require oral argument filed by Richard L. Colbert for Appellant Cross-Appellee Ronnie

Carter, [03-5245, 03-5278] (lak) [03-5245 03-5278]

11/7/03 PROOF BRIEF filed by H. Lee Barfield , W. Brantley Phillips , James F. Blumstein for Appellee Cross-Appellant Brentwood Acad Copies: 1. Certificate of Service date 11/3/03 . Number of Pages: 78. [03-5245, 03-5278] _ (lak) [03-5245 03-5278]

11/7/03 Request to require oral argument filed by W. Brantley Phillips for Appellee Cross-Appellant Brentwood Acad [03-5245, 03-5278] (lak) [03-5245 03-5278]

11/12/03 BRIEFING LETTER SENT requesting proof brief corrections from W. Brantley Phillips , James F. Blumstein , H. Lee Barfield in 03-5245, because references to the record, remove tabs. Corrections due: 11/26/03 in 03-5245, in 03-5278 . (lak) [03-5245 03-5278]

11/12/03 Amicus MOTION filed to allow Chester E. Finn, Jr., and Daniel Casse to file an amicus brief in support of Brentwood Academy. Motion filed by pro se Amicus Curiae Chester E. Finn and pro se Amicus Curiae Daniel Casse. Certificate of service date 11/10/03 . [03-5245, 03-5278] (mcp) [03-5245 03-5278]

11/12/03 BRIEF TENDERED. Received from pro se Amicus Curiae Chester E. Finn and pro se Amicus Curiae Daniel Casse, in support of Brentwood Academy. [03-5245, 03-5278] . Certificate of service date 11/10/03. Copies: 7, Pages: 13. (mcp) [03-5245 03-5278]

11/14/03 BRIEF filed by John F. Daly for Amicus Curiae FTC. Copies 7. Certificate of service date 11/13/03. Number of Pages: 37. [03-5245, 03-5278] (mcp) [03-5245 03-5278]

11/19/03 Appellant RESPONSE in opposition filed regarding a motion for leave to file w amicus curiae [2852738-1] motion previously filed by Chester E. Finn Jr., Daniel Casse. Response from Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter, TSSAA. Certificate of service date 11/17/03 . [03-5245, 03-5278] (mcp) [03-5245 03-5278]

11/24/03 Corrected second proof brief filed by W. Brantley Phillips . Copies: 1. Certificate of Service date 11/21/03 [03-5245, 03-5278] (lak) [03-5245 03-5278]

11/24/03 Appellee RESPONSE in support filed regarding a motion for leave to file amicus curiae brief [2852738-1] motion previously filed by Chester E. Finn Jr., Daniel Casse. Response from W. Brantley Phillips for Appellee Cross-Appellant Brentwood Acad. Certificate of service date 11/21/03 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

* * *

11/25/03 LETTER SENT by mcp granting joint motion to amend remaining appellate briefing deadlines [2857905-1] filed by W. Brantley Phillips Jr., Richard L. Colbert. Resetting cross appeal briefing schedule: third proof brief due 12/17/03 ; fourth proof brief due 12/31/03 ; appendix due

1/14/04 ; [03-5245, 03-5278] all final briefs now due 2/4/04 ; (mcp) [03-5245 03-5278]

* * *

12/1/03 Appellant MOTION filed to strike Attachment B from Brentwood Academy's proof brief. Motion filed by Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter, TSSAA. Certificate of service date 11/26/03 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

12/3/03 LETTER SENT by mcp to all parties. The briefing schedule of 11/25/03 has been cancelled and briefing will be held in abeyance pending a ruling on axe's motion to strike. [03-5245, 03-5278] (mcp) [03-5245 03-5278]

12/12/03 Appellee RESPONSE in opposition filed regarding a motion to strike [2861341-1] previously filed by Richard L. Colbert. Response from W. Brantley Phillips for Appellee Cross-Appellant Brentwood Acad. Certificate of service date 12/11/03 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

12/17/03 REPLY in support of motion to strike filed by Richard L. Colbert for Appellants Cross-Appellee Ronnie Carter, TSSAA. Certificate of service date 12/15/03. [03-5245, 03-5278] (mcp) [03-5245 03-5278]

2/24/04 ORDER filed granting motion to strike [2861341-1] filed by Richard L. Colbert. The plaintiff is directed to strike Exhibit B and the reference to that ad within the text of its brief when it submits

the final brief. [03-5245, 03-5278] Boyce F. Martin, Circuit Judge. (mcp) [03-5245 03-5278]

2/25/04 BRIEFING LETTER SENT resetting cross appeal briefing schedule: third proof brief due 3/25/04 ; fourth proof brief due 4/19/04 ; appendix due 5/3/04 ; all final briefs due 5/24/04 ; [03-5245, 03-5278] . (mcp) [03-5245 03-5278]

3/26/04 PROOF BRIEF filed by Richard L. Colbert , W. Gregory Miller ,John Christopher Anderson for Appellant Cross-Appellee Ronnie Carter, Appellant Cross-Appellee TSSAA . Certificate of service date 3/25/04 . Number of Pages: 67. [03-5245, 03-5278] _ (lak) [03-5245 03-5278]

* * *

4/1/04 Amicus MOTION filed for leave of National Federation of State High School Association to file amicus curiae brief in support of reversal on Brentwood Academy, motion filed by William E. Quirk & James M. Humphrey for Amicus Curiae Natl Fed St High. Certificate of service date 3/31/04 . [03-5245, 03-5278] (mcp) [03-5245 03-5278]

4/1/04 BRIEF TENDERED. Received from William E. Quirk and James M. Humphrey for Amicus Curiae Natl Fed St High. Pages: 20. [03-5245, 03-5278] . Certificate of service date 3/31/04. (mcp) [03-5245 03-5278]

4/9/04 Amicus MOTION filed for leave to file amicus brief out-of-time [2938012-1] . Motion filed by James M. Humphrey for Amicus Curiae Natl Fed St High.

Certificate of service date 4/8/04 . [03-5245, 03-5278] (mcp) [03-5245 03-5278]

* * *

4/15/04 LETTER SENT by mcp granting motion to extend briefing [2938052-1] filed by W. Brantley Phillips Jr. [03-5245, 03-5278] Resetting cross appeal briefing schedule: fourth proof brief due 5/10/04 ; appendix due 5/17/04 ; all final briefs now due 6/7/04 ; (mcp) [03-5245 03-5278]

4/26/04 Appellee RESPONSE in opposition filed to National Federal of State High School Associations' motion for leave to file amicus curiae brief out-of-time [2938012-1] previously filed by James M. Humphrey. Response from W. Brantley Phillips for Appellee Cross-Appellant Brentwood Acad. Certificate of service date 4/23/04 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

5/5/04 REPLY filed by James M. Humphrey for Amicus Curiae Natl Fed St High in support of motion for leave to file amicus curiae brief out-of-time. [03-5245, 03-5278] (mcp) [03-5245 03-5278]

5/5/04 REPLY filed by Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter, and TSSAA in support of motion for leave to file amicus curiae brief [03-5245, 03-5278] (mcp) [03-5245 03-5278]

5/11/04 PROOF (Fourth) BRIEF filed by W. Brantley Phillips, James F. Blumstein and H. Lee Barfield for Appellee, Cross-Appellant Brentwood Acad. Certificate of service date 5/10/04 . Number of

Pages: 38. [03-5245, 03-5278] (lmn) [03-5245 03-5278]

5/17/04 BRIEFING LETTER SENT requesting fourth proof reply brief corrections from W. Brantley Phillips, H. Lee Barfield and James F. Blumstein because the Table of Authorities is not in alphabetical order, footnotes must be same sized text as used in the body of the brief and the cover should state Plaintiff/Appellee, Cross-Appellant. Corrections due: 5/31/04 in 03-5245, in 03-5278 . (lmn) [03-5245 03-5278]

5/18/04 APPENDIX filed by Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter and TSSAA. Copies: 5. (Vol I thru XV) Certificate of service date 5/17/04 [03-5245, 03-5278] (lmn) [03-5245 03-5278]

5/27/04 Corrected Fourth Proof Reply brief filed by W. Brantley Phillips, H. Lee Barfield and James F. Blumstein. Copies: 1. Certificate of Service date 5/26/04 [03-5245, 03-5278] (lmn) [03-5245 03-5278]

5/27/04 Appellant MOTION filed to strike arguments appearing in Section I(B), Section II, and Section III from the proof reply brief of appelee Brentwood Academy. Motion filed by Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter, TSSAA. Certificate of service date 5/26/04 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

6/2/04 Appellee MOTION filed for extension of time of 2 weeks, until 6/25/04, to respond to motion to strike [2966777-1] previously filed by Richard L. Colbert.

Motion filed by W. Brantley Phillips for Appellee Cross-Appellant Brentwood Acad. Certificate of service date 6/1/04 . [03-5245, 03-5278] (mcp) [03-5245 03-5278]

6/4/04 LETTER SENT by mcp granting motion to extend time to respond to a previously filed motion [2966784-1] filed by W. Brantley Phillips Jr. Appellee Cross-Appellant's response is due by 6/25/2004. [03-5245, 03-5278] (mcp) [03-5245 03-5278]

6/8/04 SECOND FINAL BRIEF filed by W. Brantley Phillips, H. Lee Barfield and James F. Blumstein for Appellee Cross-Appellant Brentwood Acad. Copies: 7 Certificate of service date 6/7/04 . Number of Pages: 75. [03-5245, 03-5278] (lmn) [03-5245 03-5278]

6/8/04 Request to require oral argument filed by W. Brantley Phillips, H. Lee Barfield and James F. Blumstein for Appellee Cross-Appellant Brentwood Acad. [03-5245, 03-5278] (lmn) [03-5245 03-5278]

6/8/04 FOURTH FINAL BRIEF filed by W. Brantley Phillips, James F. Blumstein and H. Lee Barfield for Appellee Cross-Appellant Brentwood Acad. Copies: 7. Certificate of service date 6/7/04 . Number of Pages: 39. [03-5245, 03-5278] (lmn) [03-5245 03-5278]

6/9/04 FINAL BRIEF filed by Richard L. Colbert, W. Gregory Miller and John Christopher Anderson for Appellants Cross-Appellees Ronnie Carter and

TSSAA. Copies: 7. Certificate of service date 6/3/04 . Number of Pages: 66. [03-5245, 03-5278] (lmn) [03-5245 03-5278]

6/28/04 Appellee RESPONSE in oppositon filed regarding a motion to strike [2966777-1] ; previously filed by Richard L. Colbert. Response from W. Brantley Phillips for Appellee Cross-Appellant Brentwood Acad. Certificate of service date 6/25/04 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

6/29/04 ORDER filed referring to hearing panel motion to strike [2966777-1] filed by Richard L. Colbert and the response in opposition [2981009-1] filed by W. Brantley Philips [03-5245, 03-5278] (mcp) [03-5245 03-5278]

* * *

7/1/04 RULING granting motion to extend briefing [2982997-1] filed by Richard L. Colbert [03-5245, 03-5278] (lmn) [03-5245 03-5278]

7/1/04 FIRST FINAL BRIEF filed by Richard L. Colbert, W. Gregory Miller and John Christopher Anderson for Appellants Cross-Appellees Ronnie Carter and TSSAA. Copies: 7. Certificate of Service date 6/30/04 . Number of Pages: 71. [03-5245, 03-5278] (lmn) [03-5245 03-5278]

7/1/04 Request to require oral argument filed by Richard L. Colbert , W. Gregory Miller and John Christopher Anderson for Appellants Cross-Appellees Ronnie Carter and TSSAA. [03-5245, 03-5278] (lmn) [03-5245 03-5278]

7/6/04 REPLY filed by Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter, TSSAA in support to strike. Certificate of service date 7/2/04. [03-5245, 03-5278] (mcp) [03-5245 03-5278]

8/11/04 ADDITIONAL CITATION filed by Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter, TSSAA. Certificate of service date 8/9/04 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

8/30/04 ADDITIONAL CITATION filed by H. Lee Barfield for Appellee Cross-Appellant Brentwood Acad. Certificate of service date 8/26/04 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

10/15/04 Oral argument date set for December 7, 2004 in court room 607. Notice of argument sent to counsel. [03-5245, 03-5278] (pjm) [03-5245 03-5278]

11/10/04 ORDER filed granting motion to allow amicus to file a brief [2852738-1] filed by Chester E. Finn Jr., Daniel Casse, granting motion to allow amicus to file a brief [2931794-1] filed by William E. Quirk, James M. Humphrey, granting motion to file amicus brief out-of-time [2938012-1] filed by James M. Humphrey. [03-5245, 03-5278] Entered by order of the court. (mcp) [03-5245 03-5278]

11/10/04 BRIEF filed by William E. Quirk and James M. Humphrey for Amicus Curiae Natl Fed St High. Copies 26. Certificate of service date 3/31/04 . Number of Pages: 20. [03-5245, 03-5278] (mcp) [03-5245 03-5278]

11/10/04 BRIEF filed by pro se Amicus Curiae Chester E. Finn and pro se Amicus Curiae Daniel Casse. Copies 7. Certificate of service date 11/10/03. Number of Pages: 13. [03-5245, 03-5278] (mcp) [03-5245 03-5278]

11/10/04 ORDER filed denying motion to strike a portion of the argument in Brentwood Academ's reply brief, motion [2966777-1] filed by Richard L. Colbert [03-5245, 03-5278] Entered by order of the court. (mcp) [03-5245 03-5278]

11/23/04 ADDITIONAL CITATION filed by H. Lee Barfield for Appellee Cross-Appellant Brentwood Acad. Certificate of service date 1/22/04 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

12/3/04 Appellant RESPONSE filed to exa's additional citations. Response from Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter, TSSAA. Certificate of service date 12/2/04 . [03-5245, 03-5278] (mcp) [03-5245 03-5278]

12/7/04 CAUSE ARGUED on 12/7/04 by Richard L. Colbert for Appellant Cross-Appellee Ronnie Carter, Appellant Cross-Appellee TSSAA in 03-5245, James F. Blumstein for Appellee Cross-Appellant Brentwood Acad in 03-5245, Richard L. Colbert for Appellant Cross-Appellee Ronnie Carter, Appellant Cross-Appellee TSSAA in 03-5278, James F. Blumstein for Appellee Cross-Appellant Brentwood Acad in 03-5278 before Judges Gibbons, Rogers, Bell. [03-5245, 03-5278] (kal) [03-5245 03-5278]

12/17/04 ADDITIONAL CITATION filed by Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter, TSSAA. Certificate of service date 12/15/04 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

12/20/04 Appellee RESPONSE filed to axe's additional citations. Response from James F. Blumstein for Appellee Cross-Appellant Brentwood Acad. Certificate of service date 12/17/04 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

12/29/04 Errata to Appellant's final brief and final reply brief James F. Blumstein for Appellee Cross-Appellant Brentwood Acad. [03-5245, 03-5278] (mcp) [03-5245 03-5278]

1/4/05 ADDITIONAL CITATION filed by Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter, TSSAA. Certificate of service date 1/3/05 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

1/18/05 Appellee RESPONSE filed to Carter & TSSAA's addititional citations. Response from James F. Blumstein for Appellee Cross-Appellant Brentwood Acad. Certificate of service date 1/12/05 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

8/26/05 ADDITIONAL CITATION filed by James F. Blumstein for Appellee Cross-Appellant Brentwood Acad. Certificate of service date 8/25/05 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

9/2/05 Appellant RESPONSE filed to exa's additional citations. Response from Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter,

TSSAA. Certificate of service date 8/31/05 . [03-5245, 03-5278] (mcp) [03-5245 03-5278]

9/19/05 ADDITIONAL CITATION filed by Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter, TSSAA . Certificate of service date 9/15/05 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

9/21/05 Appellee RESPONSE filed to additional citations filed 9/19/05. Response from James F. Blumstein for Appellee Cross-Appellant Brentwood Acad. Certificate of service date 9/20/05 [03-5245, 03-5278] (mcp) [03-5245 03-5278]

3/17/06 OPINION filed: The judgment of the district court is AFFIRMED in part, REVERSED in part and REMANDED for further proceedings, decision for publication pursuant to local rule 206 [03-5245, 03-5278] Julia S. Gibbons, Authoring Judge, John M. Rogers, Circuit Judge, delivered a separate dissenting opinion, Robert H. Bell, Chief U.S. District Judge for the W.D. of MI. (ac) [03-5245 03-5278]

3/17/06 JUDGMENT: AFFIRMED in part, REVERSED in part and REMANDED . (ac) [03-5245 03-5278]

3/31/06 PETITION for en banc rehearing filed by Richard L. Colbert for Appellants Cross-Appellees Ronnie Carter, Cross-Appellee TSSAA. Certificate of service date 3/30/06. [03-5245, 03-5278] (blh) [03-5245 03-5278]

6/27/06 ORDER filed denying petition for en banc rehearing [3349910-1] filed by Richard L. Colbert

[03-5245, 03-5278]. Julia S. Gibbons, John M. Rogers, Circuit Judges; Robert H. Bell, District Judge. (blh) [03-5245 03-5278]

7/11/06 MANDATE ISSUED with no cost taxed [03-5245, 03-5278] (mcp) [03-5245 03-5278]

9/29/06 U.S. Supreme Court notice filed regarding petition for writ of certiorari filed by Appellant Cross-Appellee TSSAA in 03-5245, Appellant Cross-Appellee TSSAA in 03-5278 . Filed in the Supreme Court on 09-25-06 , Supreme Ct. case number: 06-427 . [03-5245, 03-5278] (swh) [03-5245 03-5278]

1/10/07 U.S. Supreme Court letter filed granting petition for writ of certiorari [3454596-1] filed by TSSAA, TSSAA Supreme Court No. 06-427 [03-5245, 03-5278] in 03-5245, 03-5278 . Filed in the Supreme Court on 01-05-07 . (swh) [03-5245 03-5278]

U.S. DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE (NASHVILLE)

No. 3:97-CV-01249

Date Filed	#	Docket Text
12/12/1997	1	COMPLAINT w/ att'd exhibits A-G (Summons(es) issued) Filing fee paid in the amount of : $150 Receipt # 61078 (af) (Entered: 12/15/1997)
12/12/1997	2	NOTICE of Initial Case Management Conference Case referred to Magistrate Judge William J. Haynes Jr. , ; Case Management Conference set for 2:00 1/28/98 (af) (Entered: 12/15/1997)
		* * *
01/07/1998	6	MOTION by defts to strike various portions of the cmp (dm) (Entered: 01/08/1998)
01/07/1998	7	MEMORANDUM by defts in support of motion to strike various portions of the cmp [6-1] (dm) (Entered: 01/08/1998)
01/07/1998	8	ANSWER by defts to [1-1] (dm) (Entered: 01/08/1998)
		* * *

02/04/1998	12	RESPONSE in OPPOSITION by pltf Brentwood Academy to motion to strike various portions of the cmp [6-1] (dm) (Entered: 02/05/1998)

* * *

02/23/1998	14	AGREED CASE MANAGEMENT ORDER NO. 1 approved by Magistrate Judge William J. Haynes Jr.: Counsel for parties shall confer about an agreement on a set of joint factual stipulations prior to 3/6/98. Case Management Conference held 2/17/98. Case Management Telephone Conference set for 3:30 on 3/6/98 . The Court plans to rule upon the defts' motion to strike w/o oral argument (cc: all counsel) EOD 2/23/98 (dm) (Entered: 02/23/1998)

* * *

03/16/1998	15	ORDER by Magistrate Judge William J. Haynes Jr.: Discovery ddl: 5/15/98. Motion filing ddl: 6/1/98. Case Management Conference held 3/11/98. In court hearing set for 9:00 on 7/13/98 before Judge Campbell (cc: all counsel) (dm) (Entered: 03/17/1998)
03/17/1998	16	ORDER by Judge Todd J. Campbell: Preliminary Injunction hearing set for 9:00 on 7/13/98. The parties shall file witness lists, exhibit lists, motions in limine, and stipulations by 7/6/98. The

parties are ordered to file by 4/1/98, briefs on the issue of whether the trial of the action on the merits should be advanced and consolidated with the hearing on the application for a preliminary injunction (cc: all counsel) EOD 3/17/98 (dm) (Entered: 03/17/1998)

04/01/1998 17 BRIEF FILED by pltf pursuant to Order [39] on consolidation of trial on merits with preliminary injunction hearing (dm) (Entered: 04/01/1998)

04/01/1998 18 BRIEF FILED by defts on trial on the Merits pursuant to Order [16] (dm) (Entered: 04/01/1998)

04/16/1998 19 ORDER by Judge Todd J. Campbell: Because the application for preliminary injunction has not yet been filed, the Court takes under advisement this issue of consolidating the hearing on the preliminary injunction with the trial on the merits until such time as the application and a response thereto have been filed with the Court. The parties are ordered to address, in the application for preliminary injunction and response thereto, the issue of whether the hearings should be so consolidated (cc: all counsel) EOD 4/16/98 (dm) (Entered: 04/16/1998)

04/22/1998	20	MOTION by pltf Brentwood Academy for protective order (dm) (Entered: 04/23/1998)
04/22/1998	21	MEMORANDUM by pltf Brentwood Academy in support of motion for protective order [20-1] (w/attachments A,B,C) (dm) (Entered: 04/23/1998)
04/27/1998	22	RESPONSE by deft to motion for protective order [20-1] (tlc) (Entered: 04/28/1998)
04/29/1998		PROPOSED Protective Order No. 1 (dm) (Entered: 04/29/1998)
04/30/1998	23	ORDER by Magistrate Judge William J. Haynes Jr. granting motion for protective order [20-1]. The subpoenas duces tecum issued on 3/24/98 to Bill Brown and Nancy Brasher are quashed to the extent that they require the production of financial aid documents and other financial information related to any students other than the four students the TSSAA has charged were recruited improperly. The subpoenas are also quashed to the extent that they are construed to request educational records of any students at Brentwood Academy other than the four students that the TSSAA has charged were recruited improperly. The Order is entered w/o prej to the right of the defts to seek production of financial information on

other students and their families at a later date after pltf has filed its papers on 6/1/98 (cc: all counsel) EOD 4/30/98 (dm) (Entered: 04/30/1998)

06/01/1998 24 COMBINED STIPULATIONS, submitted by the parties w/attached exhibits A - E (tlc) (Entered: 06/01/1998)

06/01/1998 25 MOTION by pltf Brentwood Academy for leave to file an Amended Cmp (w/exhibit) (dm) (Entered: 06/02/1998)

06/01/1998 PROPOSED Order gr mtn [25] (dm) (Entered: 06/02/1998)

06/01/1998 26 MEMORANDUM of LAW by pltf Brentwood Academy in support of motion for leave to file an Amended Cmp [25-1] (dm) (Entered: 06/02/1998)

06/01/1998 27 MOTION by pltf Brentwood Academy for partial summary judgment , for permanent injunction (dm) (Entered: 06/02/1998)

06/01/1998 28 MEMORANDUM of LAW by pltf in support of motion for partial summary judgment [27-1], of motion for permanent injunction [27-2] (dm) (Entered: 06/02/1998)

06/01/1998 29 APPENDIX (1 thru 15) filed by pltf re [28-1] (dm) (Entered: 06/02/1998)

06/01/1998	30	AFFIDAVIT of Carlton Flatt re [27-1], re [27-2] (dm) (Entered: 06/02/1998)
06/01/1998	31	STATEMENT of facts by pltf Brentwood Academy in support of [27-1], in support of [27-2] (w/attachments A thru Q) (dm) (Entered: 06/02/1998)
06/10/1998	32	NOTICE by pltf of filing amended memo of law in support of mtn for partial summary jgm (ts) (Entered: 06/11/1998)
06/10/1998	33	AMENDED MEMORANDUM OF LAW by pltf in support of motion for partial summary judgment [27-1] (ts) (Entered: 06/11/1998)

* * *

06/17/1998	35	RESPONSE by defts to mtn for leave to file an Amended Cmp [25-1] (ts) (Entered: 06/18/1998)

* * *

06/26/1998	39	ORDER by Judge Todd J. Campbell denying motion to strike [6-1]; denying mtn for leave to file an Amended Cmp [25-1] (EOD 6/26/98) (cc: all counsel) (ts) (Entered: 06/26/1998)

* * *

06/30/1998	42	NOTICE by defts of filing copies of depositions of: William Bailey Brown, Jr.

taken 4/30/98, Ronnie Carter Vol 1 - 2 taken 5/5/98 & Kevin D. Armstrong taken 4/23/98; w/attached copies of depositions and their respective exhibits (tlc) (Entered: 06/30/1998)

06/30/1998 43 STATEMENT of issues to be discussed at status conference; submitted by pltf (tlc) (Entered: 06/30/1998)

06/30/1998 44 STATEMENT of issues by defts' TN Secondary School, & Ronnie Carter pursuant to Court's order [41-2] (jb) (Entered: 07/01/1998)

06/30/1998 45 RESPONSE by defts' TN Secondary School, & Ronnie Carter to motion for partial summary judgment [27-1] (jb) (Entered: 07/01/1998)

06/30/1998 46 RESPONSE by defts' TN Secondary School, & Ronnie Carter to Statment of Undisputed Material Facts [31-1] (jb) (Entered: 07/01/1998)

06/30/1998 47 MOTION by defts' TN Secondary School, & Ronnie Carter for summary judgment (jb) (Entered: 07/01/1998)

06/30/1998 48 MEMORANDUM by defts' TN Secondary School, & Ronnie Carter in support of motion for summary judgment [47-1] (w/attachment) (jb) (Entered: 07/01/1998)

06/30/1998	49	STATEMENT of undisputed facts by defts' TN Secondary School, & Ronnie Carter in support of [47-1] (jb) (Entered: 07/01/1998)
06/30/1998	50	NOTICE of filing by defts' TN Secondary School, & Ronnie Carter of the following affidavits: Ronnie Carter, Jerome V. Sailors, Dr. Maurice M. McDonald, Jr., Marshall Eugene Foster, III, Charles Thomas Colvin, John L. Mantooth, Clay Wesley Moricle, Joel Hargis, Steven L. Maloan, & James D. Towater (w/attached affidavits) (jb) (Entered: 07/01/1998)
06/30/1998	51	AFFIDAVIT of Ronnie Carter re motion for summary judgment [47-1] (w/attachment) (jb) Modified on 07/01/1998 (Entered: 07/01/1998)
06/30/1998	52	AFFIDAVIT of Jerome V. Sailors re motion for summary judgment [47-1] (w/attachment) (jb) (Entered: 07/01/1998)
06/30/1998	53	AFFIDAVIT of Dr. Maurice M. McDonald Jr. re motion for summary judgment [47-1] (jb) (Entered: 07/01/1998)
06/30/1998	54	AFFIDAVIT of Marshall Eugene Foster III re motion for summary judgment [47-1] (jb) (Entered: 07/01/1998)

06/30/1998	55	AFFIDAVIT of Charles Thomas Colvin re motion for summary judgment [47-1] (jb) (Entered: 07/01/1998)
06/30/1998	56	AFFIDAVIT of John L. Mantooth re motion for summary judgment [47-1] (jb) (Entered: 07/01/1998)
06/30/1998	57	AFFIDAVIT of Clay Wesley Moricle re motion for summary judgment [47-1] (jb) (Entered: 07/01/1998)
06/30/1998	58	AFFIDAVIT of Joel Hargis re motion for summary judgment [47-1] (jb) (Entered: 07/01/1998)
06/30/1998	59	AFFIDAVIT of Steven L. Maloan re motion for summary judgment [47-1] (jb) (Entered: 07/01/1998)
06/30/1998	60	AFFIDAVIT of James D. Towater re motion for summary judgment [47-1] (jb) (Entered: 07/01/1998)

* * *

07/02/1998	62	ORDER by Judge Todd J. Campbell setting hearing for 7/16/98 at 1:00pm on mtn for summary jgm [47-1], mtn for partial summary jgm [27-1], and mtn for permanent inj [27-2]. The pltf shall file its response to the defts' mtn for summary jgm by 7/15/98 [47-1] (EOD 7/2/98) (cc: all counsel) (ts) (Entered: 07/02/1998)

07/14/1998	63	ORDER by Judge Todd J. Campbell directing parties to file certified copies of the minutes of the State Board of Education from 1972-1997. (EOD 7/15/98) (cc: all counsel) (ts) (Entered: 07/15/1998)
07/14/1998	64	ORDER by Judge Todd J. Campbell notifying parties that it is not necessary to file the minutes of the State Board of Education before the hearing on 7/16/98. Counsel shall be prepared to discuss their respective positions on the minutes & the support for those positions. (EOD 7/15/98) (cc: all counsel) (ts) (Entered: 07/15/1998)
07/14/1998	65	RESPONSE by pltf Brentwood Academy to Order of 7/14/98 [63-1] regarding SBOE minutes (attachments) (ts) (Entered: 07/15/1998)
07/14/1998	66	AFFIDAVIT of Gary Nixon re [65-1] (ts) (Entered: 07/15/1998)
07/14/1998	67	AFFIDAVIT of Melna R. Van Beber re [65-1] (ts) (Entered: 07/15/1998)
07/15/1998	68	REPLY by pltf in support of partial summary judgment [27-1] w/reponse to deft's mtn for summary jgm (attachments A-C) (ts) (Entered: 07/15/1998)

07/15/1998	68	RESPONSE by pltf to deft's mtn for summary jgm [47-1] (ts) (Entered: 07/15/1998)
07/15/1998	69	APPENDIX (1-16) filed by pltf to reply in support of partial summary jgm [68-1] (ts) (Entered: 07/15/1998)
07/15/1998	70	RESPONSE by pltf to defts' statement of undisputed facts [44-1] [49-1] (attachments A-D) (ts) (Entered: 07/15/1998)
07/15/1998	71	MOTION by pltf to strike affidavits of Dr. Maurice M. McDonald, Jr. and Marsshall Eugene Foster III and supporting memorandum of law (ts) (Entered: 07/15/1998)
07/15/1998	72	NOTICE by pltf of filing afdts of Tate, Haguewood, Inell, Flatt, & Brasher (ts) (Entered: 07/15/1998)
07/15/1998	73	AFFIDAVIT of Liz Tate re [68-1] (ts) (Entered: 07/15/1998)
07/15/1998	74	AFFIDAVIT of Ellis Haguewood re [68-1] (ts) (Entered: 07/15/1998)
07/15/1998	75	AFFIDAVIT of Rick Insell re [68-1] (ts) (Entered: 07/15/1998)
07/15/1998	76	AFFIDAVIT of Carlton Flatt re [68-1] (ts) (Entered: 07/15/1998)

07/15/1998	77	AFFIDAVIT of Nancy Brasher re [68-1] (ts) (Entered: 07/15/1998)
07/15/1998	78	NOTICE by pltf of fiing deposition transcripts of Flatt, Watson, Peek, & Armstrong (ts) (Entered: 07/15/1998)
07/15/1998	79	MEMORANDUM by pltf Brentwood Academy in opposition to motion for summary judgment [47-1] (tlc) (Entered: 07/15/1998)
07/15/1998	80	NOTICE of filing deposition transcripts in support of memorandum in opposition to motion for summary judgment; submitted by pltfs; w/attachments (tlc) (Entered: 07/15/1998)
07/15/1998	81	APPENDIX filed by pltf Brentwood Academy re memorandum in opposition to defts' TSSAA & Carter's motion for summary judgment on the state claims [79-1] (w/attached exhs. 1-12) (jb) (Entered: 07/16/1998)
07/16/1998	82	NOTICE by pltf Brentwood Academy of filing copy of affidavit of Liz Tate (w/attached exh. A) (jb) Modified on 07/16/1998 (Entered: 07/16/1998)
07/16/1998	83	NOTICE by defts of filing of minutes of State Board of Education for meetings between 4/19/95 and 5/27/98, pertinent memoranda of C. Brent Polton and afdts

		of Cynthia Hunter Spivey and Dr. Gary Nixon (gi) (Entered: 07/16/1998)
07/16/1998	84	AFFIDAVIT of Cynthia Hunter Spivey (gi) (Entered: 07/16/1998)
07/16/1998	85	AFFIDAVIT of Dr. Gary Nixon (gi) (Entered: 07/16/1998)
07/16/1998	86	CLERK'S RESUME Motion hearing held 7/16/98 ; Oral argument held on all pending motions. Order to enter C/R : Sherry Storey (jb) (Entered: 07/17/1998)
07/20/1998	87	NOTICE by pltf Brentwood Academy of filing of the affidavit of Ellis Haguewood with annexed exh. A; Exh. A was omitted from previous filing of original affidavit of Ellis Haguewood [74-1] (w/attached copy of affidavit & exh. A) (jb) Modified on 07/21/1998 (Entered: 07/21/1998)
07/20/1998	88	THIRD AFFIDAVIT of Carlton Flatt (w/attached exhs. A & B) (jb) (Entered: 07/21/1998)
07/22/1998	89	MEMORANDUM by pltf Brentwood Academy regarding deft Carter's participation in TSSAA Board of Control Hearing of 8/23/97 (jb) (Entered: 07/22/1998)
07/22/1998	90	MOTION by pltf Brentwood Academy for leave to file amended complaint and

		memorandum in support thereof (w/attached proposed order) (jb) (Entered: 07/22/1998)
07/22/1998	91	NOTICE by pltf Brentwood Academy of filing the following deposition transcripts: Wanda Belt, Lynn Brown, Morris Rogers (w/attached copies of depos) (cy of deposition of John Dixon also attached but not listed in ntc of filing) (jb) Modified on 07/23/1998 (Entered: 07/23/1998)
07/22/1998	92	NOTICE by defts' TN Secondary School & Ronnie Carter of filing of the following: Second Affidavit of Ronnie L. Carter; Affidavit of Charles Walker; Defts' Motion to Strike the Second Affidavit of Carlton Flatt & Affidavit of Liz Tate; Defts' Motion to Strike the Affidavit of Ellis Haguewood; Defts' Response to the Pltf's Motion to Strike the Affidavits of Dr. Maury McDonald & Marshall Eugene Foster (w/attached afdts. of Ronnie L. Carter, Charles Walker, Deft's Motion to Strike Second afdt..., Defts' Motion to Strike aftd of Ellis Haguewood, Resp. to Pltf's...) (jb) (Entered: 07/23/1998)
07/22/1998	93	SECOND AFFIDAVIT of Ronnie L. Carter re Notice of Filing [92-1] (w/attachment) (jb) Modified on 07/23/1998 (Entered: 07/23/1998)

07/22/1998	94	MOTION by defts' TN Secondary School & Ronnie Carter to strike Second Affidavit of Carlton Flatt & Affidavit of Liz Tate (jb) (Entered: 07/23/1998)
07/22/1998	95	MOTION by defts' TN Secondary School & Ronnie Carter to strike Affidavit of Ellis Haguewood (jb) (Entered: 07/23/1998)
07/22/1998	96	RESPONSE by defts' TN Secondary School & Ronnie Carter to motion to strike affidavits of Dr. Maury McDonald, and Marshall Eugene Foster III [71-1] (jb) (Entered: 07/23/1998)
07/24/1998	97	RESPONSE by defts to pltf's motion for leave to file amended complaint and memorandum in support thereof [90-1]; w/attachments (tlc) (Entered: 07/24/1998)
07/24/1998	98	RESPONSE by defts to pltf's memorandum re deft Carter's participation in 8/23/97 TSSAA Board of Control Hearing [89-1] (tlc) (Entered: 07/24/1998)
07/24/1998	99	NOTICE by defts to attys of record of filing responses, DE #'s 97 & 98 (tlc) (Entered: 07/24/1998)
07/24/1998	100	REPLY by pltf to response to motion to strike affidavits of Dr. Maurice M. McDonald, Jr. and Marshall Eugene

Foster III [71-1] (gi) (Entered: 07/27/1998)

07/24/1998 101 RESPONSE by pltf to motion to strike Second Affidavit of Carlton Flatt & Affidavit of Liz Tate [94-1] (gi) (Entered: 07/27/1998)

07/24/1998 102 RESPONSE by pltf to motion to strike Affidavit of Ellis Haguewood [95-1] (gi) (Entered: 07/27/1998)

07/24/1998 103 SECOND AFFIDAVIT of Melna Van Beber by pltf (gi) (Entered: 07/27/1998)

07/29/1998 104 MEMORANDUM OF THE COURT (cc: all counsel) (EOD 7/29/98) (tlc) (Entered: 07/29/1998)

07/29/1998 105 ORDER by Judge Todd J. Campbell; court heard oral argument on the following pending motions on 7/16/98; granting in part and denying in part defts' motion for summary judgment [47-1]; granted as to pltf's equitable estoppel claim and that claim is dismissed; granting in part and denying in part pltf Brentwood Academy's motion for partial summary judgment [27-1] & for permanent injunction [27-2]; granted as to claim that TSSAA's Recruiting Ruel violates the 1st Amendment on its face and as applied to Brentwood Academy; defts are hereby enjoined from any use of the Recruiting Rule; all sanctions

		imposed by the TSSAA to Brentwood Academy, DE #1, Ex G, are void and unenforceable; the disposition of other issues presented by the pending motions is discussed in the memorandum (cc: all counsel) (EOD 7/29/98) (tlc) (Entered: 07/29/1998)
07/30/1998	106	NOTICE OF APPEAL by defts TN Secondary School, Ronnie Carter from Dist. Court decision [105-1] (mg) (Entered: 08/03/1998)
07/30/1998	107	RECEIVED filing fee and forwarded to 6th CCA, rcpt #64418 (mg) (Entered: 08/03/1998)
08/14/1998		Short Record on Appeal sent to 6th CCA re [106-1] (mg) (Entered: 08/14/1998)
08/24/1998	108	NOTIFICATION by 6th CCA of Appellate Docket Number 98-6113 (mg) (Entered: 08/25/1998)
08/26/1998		TRANSCRIPT Order Form re [106-1] Transcript unnecessary (mg) (Entered: 08/26/1998)
08/28/1998	109	MOTION by pltf Brentwood Academy for attorneys' fees and related nontaxable expenses , or for scheduling order (dm) (Entered: 09/01/1998)
08/28/1998	110	MEMORANDUM by pltf Brentwood Academy in support of motion for

attorneys' fees and related nontaxable expenses [109-1], or scheduling order [109-2] (dm) (Entered: 09/01/1998)

08/28/1998 111 AFFIDAVIT of G. Thomas Nebel re [109-1], re [109-2] (w/attachment 1) (dm) (Entered: 09/01/1998)

08/28/1998 112 AFFIDAVIT of James F. Blumstein re [109-1], re [109-2] (dm) (Entered: 09/01/1998)

08/28/1998 113 AFFIDAVIT of Aubrey B. Harwell, Jr. re [109-1], re [109-2] (dm) (Entered: 09/01/1998)

08/28/1998 114 AFFIDAVIT of William R. Willis, Jr. re [109-1], re [109-2] (dm) (Entered: 09/01/1998)

08/28/1998 115 AFFIDAVIT of H. Lee Barfield, II re [109-1], re [109-2] (w/attachments 1 and 2) (dm) (Entered: 09/01/1998)

09/09/1998 116 RESPONSE by defts to motion for attorneys' fees and related nontaxable expenses [109-1] (dm) (Entered: 09/10/1998)

09/11/1998 117 ORDER by Judge Todd J. Campbell denying motion for attorneys' fees and related nontaxable expenses [109] w/o prej (cc: all counsel) EOD 9/14/98 (dm) (Entered: 09/14/1998)

06/23/1999	118	INFORMATION COPY from 6th CCA: We REVERSE the district court's grant of sumjgm in favor of Brentwood, VACATE the injunction, and REMAND the case for futher proceedings consistent with this opinion. (mg) (Entered: 06/24/1999)
06/23/1999	119	JUDGMENT 6CCA: District court jgm is REVERSED, injunction is VACATED, and the case is REMANDED to the district court. (mg) (Entered: 06/24/1999)
07/19/1999	120	ORDER by Judge Todd J. Campbell granting motion for leave to file amended complaint [90-1], finding the motion to strike Affidavit of Ellis Haguewood [95-1] moot., finding the motion to strike Affidavit of Carlton Flatt & Affidavit of Liz Tate [94-1] moot., finding the motion to strike affidavits of Dr. Maurice M. McDonald, Jr. and Marsshall Eugene Foster III [71-1] moot. (cc: all counsel) EOD 7/21/99 (mg) (Entered: 07/21/1999)
09/13/1999	121	ORDER from 6th CCA denying petition for reheaing. (mg) (Entered: 09/14/1999)
09/13/1999	122	MANDATE from 6th CCA vacating, reversing and remanding the matter back to District Court [Appeal [118-1] pursuant to the court's info order filed 6/21/99. (mg) (Entered: 09/14/1999)

12/09/1999	123	ORDER by Judge Robert L. Echols; Case reassigned to Magistrate Judge Juliet E. Griffin per the appointment of the Hon. William J. Haynes, Jr. as a U.S. District Judge. All scheduled ddls will remain in effect. (cc: all counsel) (EOD 12/9/99) (jb) (Entered: 12/09/1999)
12/15/1999	124	NOTICE by U.Supreme Court of filing of petition for writ of cert on 11/29/99. (mg) (Entered: 12/15/1999)
02/28/2000	125	ORDER by U.S. Supreme Court: Mtn of Memphis Univ School, et al for leave to file a brief as amicus curiae is granted; mtn of petitioner for summary reversal is denied. The petition for writ os cert is granted. (mg) (Entered: 03/02/2000)
07/31/2000	126	LETTER from U.S. Supreme Court requesting CR (mg) (Entered: 08/01/2000)
08/02/2000		CR Record on Appeal sent to U.S. Supreme Court re [106-1] (mg) (Entered: 08/02/2000)
08/10/2000		REMARK: Ack of CR filed at the Supreme Court of the U.S. on 8/7/00. (mg) (Entered: 08/11/2000)

* * *

02/26/2001	130	ORDER from Supreme Court of the U.S. reversing the judgment of the 6CCA.

		The case is remanded for further proceedings consistent with this opinion. (jb) (Entered: 02/27/2001)
02/28/2001	131	CLERK'S RESUME; Status Conference held 2/28/01 ; This status conference was held to discuss the remaining issues with this court. The possibility of ADR was also discussed. C/R: Jim Spence (jb) (Entered: 03/01/2001)
03/16/2001	132	ORDER by Judge Todd J. Campbell closing file administratively pending appeal (cc: all counsel) EOD 3//16/01 (mg) (Entered: 03/16/2001)
03/16/2001		REMARK: Copy of 3/16/01 order closing case sent to 6C Attn: Yvonne Henderson (mg) Modified on 03/16/2001 (Entered: 03/16/2001)
03/29/2001	133	SYLLABUS from the Supreme Court of the U.S. REVERSING the judgment of the 6CCA and remanding the case for further proceedings consistent with this opinion. (mg) (Entered: 03/30/2001)
03/29/2001	134	JUDGMENT by the Supreme Court of the U.S. REVERSING and REMANDING the judgment of the 6CCA. Further ORDERED that the petitioner Brentwood Academy recover from the Tennessee Secondary School Athletic Association, et al $1,909.00 for

costs herein expended. (mg) (Entered: 03/30/2001)

* * *

08/27/2001	137	INFORMATION COPY from 6th Circuit: The grant of summary judgment in favor of Brentwood is REVERSED and the case is REMANDED to the district court for further proceedings consistent with this opinion. (mg) (Entered: 08/30/2001)
08/27/2001	138	JUDGMENT by the 6CCA: Upon consideration of the 2/20/01 opinion of the U.S. Supreme Court in this case and oral argument of counsel, it is ORDERD that the judgment of the district court granting sumjgm in favor of pltf Brentwood Academy is REVERSED and the case is REMANDED for further proceedings consistent with the opinion of this court. (mg) (Entered: 08/30/2001)
08/29/2001	136	ORDER by Judge Todd J. Campbell; Jury Trial set for 9:00 7/22/02; Pretrial Conference set for 1:00 7/2/02; Joint Pretrial Order ddl 6/26/02; Discovery is reopened and discovery ddl is set for 5/31/02; by 6/17/02, the ptys shall file any motions in limine and any motions objecting to expert testimony (cc: all counsel) (EOD 8/29/01) (jb) Modified on 09/10/2001 (Entered: 08/29/2001)

09/12/2001	139	LETTER from pltf's atty Barfield reiterating that Brentwood Academy is not demanding a jury in this case. Designation to the contrary on the cover sheet was in error. (mg) (Entered: 09/13/2001)
10/03/2001	140	ORDER by Judge Todd J. Campbell vacating [136-1][136-2] Scheduling order setting this case for Jury Trial 9:00 7/22/02; Pretrial Conference set for 1:00 7/2/02; Joint Pretrial Order ddl 6/26/02; Bench Trial set for 9:00 7/22/02 Wit and Exh list due by 6/26/02. (cc: all counsel) EOD 10/3/01 (mg) Modified on 10/11/2001 (Entered: 10/03/2001)
		* * *
12/05/2001	142	MANDATE issued 12/3/01 from 6th CCA reversing and remanding the Decision of the District Court [Appeal [137-1] filed 8/23/01 (mg) (Entered: 12/06/2001)
12/07/2001		RECORD on appeal returned from Supreme Court of the U.S. re appeal [133-1] (mg) (Entered: 12/10/2001)
12/07/2001	143	MOTION by defts to postpone trial (jb) (Entered: 12/10/2001)
		* * *

12/20/2001	145	RESPONSE by pltf Brentwood Academy to motion to postpone trial [143-1] (jb) (Entered: 12/20/2001)
12/21/2001	146	ORDER by Judge Todd J. Campbell; defts' motion to postpone trial [143-1] is granted in part and denied in part; the trial is continued for a short period; Bench Trial is reset for 9:00 8/5/02; Joint Proposed Pretrial Order ddl is reset for 7/17/02; Pretrial Conference is reset for 9:00 7/22/02; by 7/8/02 the ptys shall file any mtns in limine and any mtns objecting to expert testimony; any responses to such mtns shall be filed by 7/17/02; the ptys shall file pretrial briefs with the Court at least one week before the trial (cc: all counsel) (EOD 12/21/01) (jb) (Entered: 12/21/2001)
12/27/2001	147	REPLY by defts in support of motion to postpone trial [143-1] (vh) (Entered: 12/28/2001)
01/11/2002	148	MOTION by defts to dismiss (jb) (Entered: 01/11/2002)
01/11/2002	149	MEMORANDUM by defts in support of motion to dismiss [148-1] (jb) (Entered: 01/11/2002)
01/28/2002		PROPOSED Agreed Order allowing the pltf until 3/4/02 to respond to defts' motion to dismiss pltf's antitrust claim(s) (jb) (Entered: 01/29/2002)

01/29/2002	150	AGREED ORDER by Judge Todd J. Campbell allowing the pltf until 3/4/02 to respond to defts' motion to dismiss [148-1] (cc: all counsel) (EOD 1/30/02) (jb) (Entered: 01/30/2002)
02/13/2002	151	LETTER from Supreme Court of the United States to Clerk of 6CCA advising the petition for a writ of certiorari was filed on 1/28/02, No. 01-1117 (gi) (Entered: 02/14/2002)
03/04/2002	152	MEMORANDUM by pltf Brentwood Academy in opposition to TSSAA's motion to dismiss antitrust claim [148-1] (w/attached exh. A) (jb) (Entered: 03/04/2002)
03/13/2002	153	ORDER by Judge Todd J. Campbell denying motion to dismiss [148-1] without prejudice to raising the same issues in a mtn for summary judgment. EOD 3/13/02 (cc: all counsel) (gi) (Entered: 03/13/2002)
03/14/2002	154	REPLY by defts in support of motion to dismiss antitrust claims [148-1] (jb) (Entered: 03/15/2002)
04/19/2002	155	MOTION by defts for partial summary judgment (jb) (Entered: 04/19/2002)
04/19/2002	156	MEMORANDUM OF LAW by defts in support of motion for partial summary

		judgment [155-1] (jb) (Entered: 04/19/2002)
04/19/2002	157	STATEMENT of undisputed facts by defts in support of motion for partial summary judgment regarding pltf's Federal AntiTrust Claims [155-1] (w/attached addendum A & B) (jb) (Entered: 04/19/2002)
04/22/2002	158	NOTICE from the US Supreme Court that the petition for a writ of certiorari is denied (af) (Entered: 04/22/2002)
04/26/2002		PROPOSED Agreed Order re ddl to complete expert witness depositions (jb) (Entered: 04/29/2002)
05/02/2002	159	AGREED ORDER by Judge Todd J. Campbell: The ptys shall complete any and all expert witness depositions by not later than June 14, 2002. (cc: all counsel) (EOD 5/3/02) (jb) (Entered: 05/03/2002)

* * *

05/06/2002	161	MOTION by pltf Brentwood Academy for leave to propound additional interrogatories on defts (w/attached exhs. A-D; exh. D-Proposed Order) (jb) (Entered: 05/07/2002)

* * *

05/10/2002	163	SECOND MOTION by defts to postpone trial (jb) (Entered: 05/13/2002)
05/13/2002	164	RESPONSE by defts to pltf's motion for leave to propound additional interrogatories on defts [161-1] (w/attached exh. A) (jb) (Entered: 05/14/2002)

* * *

05/16/2002	166	ORDER by Judge Todd J. Campbell: Parties are to participate in mediation pursuant to Rules 20-28 of Local Rules of Court. The Magistrate Judge shall issue all necessary orders to implement the mediation. EOD 5/16/02 (cc: all counsel) (gi) Modified on 05/22/2002 (Entered: 05/16/2002)
05/20/2002	167	ORDER by Judge Todd J. Campbell: Status Conference set for 3:00 5/22/02 (cc: all counsel) (EOD 5/20/02) (jb) (Entered: 05/20/2002)
05/20/2002	168	MOTION by pltf Brentwood Academy for leave to present additional experts (w/attached proposed order and notice of filing expert witness disclosures) (jb) Modified on 05/21/2002 (Entered: 05/21/2002)
05/21/2002	169	ORDER by Magistrate Judge Juliet E. Griffin: Status Conference is scheduled on 5/22/02 before Judge Campbell re

Order DE #167. Counsel for the ptys shall appear before Judge Griffin after the conclusion of the 5/22/02 status conference to address mediation options. (cc: all counsel) (EOD 5/21/02) (jb) (Entered: 05/21/2002)

05/21/2002 170 RESPONSE by pltf to defts' second motion to postpone trial [163-1] (jb) (Entered: 05/22/2002)

* * *

05/23/2002 173 ORDER by Judge Todd J. Campbell: Hearing held 5/22/02. Defts' motion for partial summary judgment [155-1] is taken under advisement pending the filing of a response in accordance with this Order. Pltf's motion for leave to propound additional interrogatories on defts [161-1] is granted, and pltf shall serve a maximum of 75 additional interrogatories to defts. Defts' second motion to postpone trial [163-1] is granted. Defts' motion for an extension of time until 8/12/02 to respond to discovery requests [165-1] is granted in part and denied in part. Pltf shall file its response to defts' pending motion for partial summary judgment [155-1] by 8/15/02. Defts shall file any reply on or before 8/30/02. Pltf's motion for leave to present additional experts [168-1] is granted for the reasons set forth at the Status Conference. Bench Trial is reset

for 9:00 12/11/02; Joint Proposed Pretrial Order ddl is reset for 11/20/02; Pretrial Conference is reset for 1:00 11/25/02; Pretrial Briefs shall be filed one week before the trial; Discovery ddl is reset for 8/1/02; Dispositive Motion filing ddl is reset for 8/30/02. Case referred to Magistrate Judge Juliet E. Griffin for determination of all non-dispositive motions. The Magistrate Judge shall deny any discovery motion which does not comply with Local Rule 9(e). (cc: all counsel) (EOD 5/23/02) (jb) (Entered: 05/23/2002)

* * *

05/23/2002	175	EXPERT WITNESS DISCLOSURE STATEMENT of John Van Mol by pltf Brentwood Academy re [174-1] (w/attached exhs. A-C) (jb) (Entered: 05/23/2002)
05/24/2002	176	ORDER by Magistrate Judge Juliet E. Griffin: Status conference held 5/22/02. By 6/7/02 deft's counsel shall confer with deft Carter and the Board of Control of deft TSSAA and provide to pltf's counsel a point-by-point response to pltf's proposal drafted a year ago. Parties shall engage in mediation to be completed by 8/9/02. Telephone status conference set for 3:00 on 6/17/02. EOD 5/24/02 (cc: all counsel) (gi) (Entered: 05/24/2002)

* * *

06/19/2002	179	NOTICE by defts of filing expert witness disclosures of Allen L. Sack; George H. Sage; and John E. Roberts. (w/ att'd stmts) (dlt) (Entered: 06/20/2002)
06/19/2002	180	NOTICE by defts of filing expert witness disclosures of Murray A. Sperber; Sharon Kay Stoll; and C. Thomas McMillen. (w/ att'd stmts) (dlt) (Entered: 06/20/2002)

* * *

07/08/2002	182	MOTION by pltf Brentwood Academy for clarification or, alternatively for leave to propound additional interrogatories on defts (w/attached exhs. A & B) (jb) (Entered: 07/09/2002)
07/08/2002	183	MOTION by pltf Brentwood Academy for leave for second deposition of deft Ronnie Carter (w/attached exhs. A-C) (jb) (Entered: 07/09/2002)
07/10/2002	184	RESPONSE by defts to motion for leave for second deposition of deft Ronnie Carter [183-1] (w/attached exhs. A-C) (jb) (Entered: 07/11/2002)

* * *

07/12/2002	185	AGREED ORDER by Magistrate Judge Juliet E. Griffin: Discovery ddl is reset for 8/30/02 ; Pltf's motion for extension of discovery to 8/30/02 [181-1] and motion for leave for second deposition of deft Ronnie Carter [183-1] is denied as moot (cc: all counsel) (EOD 7/15/02) (jb) (Entered: 07/15/2002)

* * *

07/19/2002	187	MOTION by pltf for leave to amend complaint (w/attached original amended complaint) (jb) (Entered: 07/22/2002)
07/19/2002	188	MEMORANDUM OF FACTS AND LAW by pltf in support of motion for leave to amend complaint [187-1] (jb) (Entered: 07/22/2002)
07/23/2002	189	REVISED MOTION by pltf Brentwood Academy for leave to amend complaint (w/attached exh. A-First Amended Complaint w/No Signature) (jb) Modified on 07/23/2002 (Entered: 07/23/2002)
07/25/2002	190	ORDER by Magistrate Judge Juliet E. Griffin finding the motion for clarification [182-1] or for leave to propound additional interrogatories on defts [182-2] moot as counsel for defts advised the Court this matter had been resolved. EOD 7/26/02 (cc: all counsel) (gi) (Entered: 07/26/2002)

07/26/2002	191	RESPONSE by defts TN Secondary School & Ronnie Carter to motion for leave to amend complaint [189-1] (jb) (Entered: 07/29/2002)
08/07/2002	192	MOTION by pltf Brentwood Academy to compel discovery . (dlt) (Entered: 08/08/2002)
08/07/2002	193	MEMORANDUM by pltf Brentwood Academy in support of motion to compel discovery [192-1]. (w/ att'd exhibit A-C) (dlt) (Entered: 08/08/2002)
08/07/2002	194	MOTION by pltf Brentwood Academy to shorten defts' response time on mtn to compel discovery and for hearing on mtn to compel . (dlt) (Entered: 08/08/2002)
08/08/2002	195	RESPONSE by defts to motion to shorten defts' response time on mtn to compel discovery [194-1] and for hearing on mtn to compel [194-2]; w/attached Exhibits A-B (rls) (Entered: 08/08/2002)
08/08/2002	196	ORDER by Judge Todd J. Campbell granting revised motion for leave to amend complaint [189-1]. Pltf's motion for leave to amend complaint [187-1] is moot. (cc: all counsel) (EOD 8/9/02) (jb) (Entered: 08/09/2002)
08/09/2002	197	ORDER by Magistrate Judge Juliet E. Griffin denying motion to compel discovery [192-1] with leave to refile in

compliance with Local Rule 9(e) (cc: all counsel) (EOD 8/9/02) (jb) (Entered: 08/09/2002)

08/15/2002 198 MOTION by defts for leave to call additional and rebuttal expert witnesses (w/attached exhs. A-C) (jb) (Entered: 08/15/2002)

08/15/2002 199 MEMORANDUM OF LAW by defts in support of motion for leave to call additional and rebuttal expert witnesses [198-1] (jb) (Entered: 08/15/2002)

08/15/2002 200 MEMORANDUM by pltf in opposition to defts' motion for partial summary judgment on Federal Antitrust Claims [155-1] (jb) (Entered: 08/16/2002)

08/15/2002 201 RESPONSE by pltf to defts' statement of undisputed facts in support of motion for partial summary judgment on Federal Anti-Trust Claims [157-1] (jb) (Entered: 08/16/2002)

08/15/2002 202 STATEMENT of undisputed facts by pltf in support of response in opposition to defts' motion for partial summary judgment on Federal Antitrust Claims [200-1] (jb) (Entered: 08/16/2002)

08/26/2002 203 REPLY by defts to pltf's response to defts' motion for partial summary judgment on antitrust claims [155-1]

(w/attached exhs. A-C) (jb) (Entered: 08/27/2002)

08/26/2002 204 RESPONSE by defts to BrentWood Academy's statement of undisputed facts in support of opposition to defts' motion for partial summary judgment on Federal Antitrust Claims [202-1] (jb) (Entered: 08/27/2002)

08/27/2002 205 FIRST AMENDED COMPLAINT [1-1] by pltf Brentwood Academy (jb) (Entered: 08/28/2002)

08/28/2002 206 RENEWED MOTION by pltf Brentwood Academy to compel and for expedited hearing (w/attached exhs. A-D) (jb) (Entered: 08/29/2002)

08/28/2002 207 JOINT DISCOVERY DISPUTE STATEMENT by pltf & defts re renewed motion to compel [206-1] and for expedited hearing [206-2] (w/attached exhs. 1 & 2) (jb) (Entered: 08/29/2002)

08/28/2002 208 MOTION by pltf Brentwood Academy for oral argument on its renewed motion to compel & for expedited hearing (jb) (Entered: 08/29/2002)

08/29/2002 209 ORDER by Magistrate Judge Juliet E. Griffin: The order entered 5/24/02 DE #176 is modified as follows: The ptys shall participate in a mediation to be conducted by Professor Perry Wallace to

begin on 9/24/02. Counsel for the ptys shall convene a telephone conference call with Professor Wallace at 3:00 on 8/30/02 at 202-274-4243 to address arrangement for the mediation. As a housekeeping matter, the pltf's motion to shorten defts' response time on mtn to compel discovery [194-1] and for a hearing on mtn to compel [194-2] is rendered moot. (cc: all counsel, xc: rm) (EOD 8/29/02) (jb) (Entered: 08/29/2002)

08/29/2002 210 RESPONSE by pltf Brentwood Academy in opposition to defts' motion for leave to call additional and rebuttal expert witnesses [198-1] (w/attached exh. 1) (jb) (Entered: 08/30/2002)

* * *

09/04/2002 211 ORDER by Magistrate Judge Juliet E. Griffin: Hearing held 8/30/02. Pltf's motion for oral argument on its renewed motion to compel & for expedited hearing [208-1] and motion for expedited hearing [206-2] were granted. The pltf's motion to compel [206-1] is granted to the extent set forth in this Order based on discussions with counsel on 8/30/02. (cc: all counsel) (EOD 9/4/02) (jb) (Entered: 09/04/2002)

09/04/2002 212 AGREED ORDER by Judge Todd J. Campbell: Dispositive Motion filing deadline is reset for 9/17/02. Responses

		to dispositive motions is reset for 10/7/02. Replies is reset for 10/14/02. Service of all materials to be by personal delivery or fax on the day of filing. (cc: all counsel) (EOD 9/5/02) (jb) (Entered: 09/05/2002)
09/05/2002	213	ORDER by Magistrate Judge Juliet E. Griffin: The portion of the pltf's motion to compel [206-1] [206-2] seeking sanctions for the defts' failure to cooperate and legal fees and expenses associated with bringing the motion to compel is denied. (cc: all counsel) (EOD 9/6/02) (jb) (Entered: 09/06/2002)
09/06/2002	214	REPLY by defts to response to motion for leave to call additional and rebuttal expert witnesses [198-1] (jb) (Entered: 09/09/2002)
09/10/2002	215	ANSWER by defts TN Secondary School & Ronnie Carter to complaint [205-1] [1-1] (jb) (Entered: 09/11/2002)
09/13/2002	216	MOTION by defts TN Secondary School & Ronnie Carter for review to appeal the September 4, 2002 Order DE #211 (w/attached exhs. 1 & 2) (jb) (Entered: 09/16/2002)
09/13/2002	217	BRIEF by defts TN Secondary School & Ronnie Carter in support of motion for review to appeal the September 4, 2002 Order DE #211 [216-1] (jb) (Entered: 09/16/2002)

09/17/2002	218	MOTION by defts TN Secondary School & Ronnie Carter for summary judgment (jb) (Entered: 09/18/2002)
09/17/2002	219	BRIEF by defts TN Secondary School & Ronnie Carter in support of motion for summary judgment [218-1] (jb) (Entered: 09/18/2002)
09/17/2002	220	STATEMENT of undisputed facts by defts TN Secondary School & Ronnie Carter in support of motion for summary judgment [218-1] (jb) (Entered: 09/18/2002)
09/17/2002	221	NOTICE by defts TN Secondary School & Ronnie Carter of filing the attached copy of deposition of Fred S. McChesney taken on 8/23/02 (jb) (Entered: 09/18/2002)
09/17/2002	222	SECOND MOTION by pltf Brentwood Academy for partial summary judgment (jb) (Entered: 09/18/2002)
09/17/2002	223	MEMORANDUM by pltf Brentwood Academy in support of motion for partial summary judgment [222-1] (jb) (Entered: 09/18/2002)
09/17/2002	224	STATEMENT of undisputed facts by pltf Brentwood Academy in support of its second motion for partial summary judgment [222-1] (w/attached exhs. A-I) (jb) (Entered: 09/18/2002)

09/18/2002	225	MOTION by pltf Brentwood Academy for oral argument on its second motion for partial summary judgment (jb) (Entered: 09/18/2002)
09/18/2002	226	ORDER by Judge Todd J. Campbell granting defts' motion for leave to call additional and rebuttal expert witnesses [198-1]. Defts may call Professor Murray Sperber, Professor Sharon Stoll, and Mr. C. Thomas McMillen as witnesses at the trial of this action. (cc: all counsel) (EOD 9/18/02) (jb) (Entered: 09/18/2002)
09/20/2002	227	MOTION by pltf Brentwood Academy for an extension of time until 10/28/02 to respond to defts' motion for review (jb) (Entered: 09/23/2002)
09/23/2002	228	ORDER by Judge Todd J. Campbell granting Brentwood Academy's motion for an extension of time until 10/28/02 to respond to defts' motion for review [216-1] [227-1] (cc: all counsel) (EOD 9/24/02) (jb) (Entered: 09/24/2002)
09/23/2002	229	RESPONSE by defts to pltf's motion for an extension of time until 10/28/02 to respond to defts' motion for review [227-1] (jb) (Entered: 09/24/2002)
10/02/2002	230	PRELIMINARY RESPONSE by pltf to defts' motion for review [216-1] (w/attached exhs. A-C) (jb) (Entered: 10/03/2002)

10/04/2002	231	MOTION by defts for leave to file a reply in support of motion for review (jb) (Entered: 10/07/2002)
10/07/2002	232	ORDER by Judge Todd J. Campbell granting motion for leave to file a reply in support of motion for review [231-1]. Defts shall have until 10/14/02 to file a reply to pltf's preliminary response to the motion for review [216-1] (cc: all counsel) (EOD 10/7/02) (jb) (Entered: 10/07/2002)
10/07/2002	233	MOTION by defts to strike (jb) (Entered: 10/07/2002)
10/07/2002	234	RESPONSE by pltf Brentwood Academy to defts' motion for summary judgment [218-1] (w/attached exh. 1) (jb) (Entered: 10/08/2002)
10/07/2002	235	RESPONSE by pltf Brentwood Academy to defts' statement of undisputed facts [220-1] (jb) (Entered: 10/08/2002)
10/07/2002	236	MEMORANDUM by defts in opposition to pltf's motion for partial summary judgment [222-1] on pltf's antitrust claims (jb) (Entered: 10/08/2002)
10/07/2002	237	RESPONSE by defts to Brentwood Academy's statement of undisputed facts in support of its second motion for partial

summary judgment [224-1] (jb) (Entered: 10/08/2002)

10/07/2002 238 NOTICE by defts of filing the attached affidavit of Ronnie Carter; and copy of excerpts from 8/23/02 deposition of Fred N. McChesney in support of defts' response to the pltf's motion for partial summary judgment (jb) (Entered: 10/08/2002)

10/07/2002 239 AFFIDAVIT of Ronnie Carter re [236-1] (jb) (Entered: 10/08/2002)

10/07/2002 240 MOTION by defts to strike the affidavits of Billy Lynch and Richard Anderson (jb) (Entered: 10/08/2002)

10/07/2002 241 BRIEF by defts in support of motion to strike the affidavits of Billy Lynch and Richard Anderson [240-1] (w/attached exh. A) (jb) (Entered: 10/08/2002)

10/07/2002 242 MOTION by defts to strike undisputed facts numbered 9, 16-17, 19-20, 47-59, and 83-84 (jb) (Entered: 10/08/2002)

10/07/2002 243 BRIEF by defts in support of motion to strike undisputed facts numbered 9, 16-17, 19-20, 47-59, and 83-84 [242-1] (w/attached exhs. A & B) (jb) (Entered: 10/08/2002)

10/11/2002 244 REPLY by pltf to response to motion for partial summary judgment [222-1]

		(w/attachments) (gi) (Entered: 10/15/2002)
10/11/2002	245	REPLY by defts to response to motion for summary judgment [218-1] (gi) (Entered: 10/15/2002)
10/11/2002	246	REPLY by defts to response to motion for review to appeal the September 4, 2002 Order DE #211 [216-1] (gi) (Entered: 10/15/2002)
10/15/2002	247	APPENDIX of Authorities (1-5) filed by pltf in support of second mtn for partial summary judgment [222-1] (gi) (Entered: 10/15/2002)
10/21/2002	248	RESPONSE by pltf Brentwood Academy to defts' motion to strike undisputed facts numbered 9, 16-17, 19-20, 47-59, and 83-84 [242-1] (w/attached exh. A) (jb) (Entered: 10/22/2002)
10/21/2002	249	RESPONSE by pltf Brentwood Academy to defts' motion to strike the affidavits of Billy Lynch and Richard Anderson [240-1] (jb) (Entered: 10/22/2002)
10/21/2002	250	NOTICE by pltf Brentwood Academy of filing the attached copy of deposition of Hulon Watson dated 5/12/02 (jb) (Entered: 10/22/2002)

10/22/2002	251	ORDER by Judge Todd J. Campbell: Pending before the Court, among other things, is defts' motion for partial summary judgment [155-1] regarding certain antitrust claims. The briefs filed by the ptys raise the issue of whether the TSSAA is a "political subdivision of the state of Tennessee" for antitrust law purposes. (DE Nos. 156, 200 and 203) The Atty General of Tennessee is advised of this litigation in which the State may have an interest. The Clerk shall serve a copy of this Order on Tennessee Atty Gen Paul Summers. By 11/12/02, the Atty Gen shall file any notice of appearance or motion to intervene in the case. (cc: all counsel) (EOD 10/22/02) (jb) (Entered: 10/22/2002)
10/23/2002	252	MOTION by defts for leave to file reply to pltf's response to defts' motion to strike undisputed facts numbered 9, 16-17, 19-20, 47-59, and 83-84 (jb) (Entered: 10/24/2002)
10/24/2002	253	ORDER by Judge Todd J. Campbell granting defts' motion for leave to file reply to pltf's response to defts' motion to strike undisputed facts numbered 9, 16-17, 19-20, 47-59, and 83-84 [252-1] (cc: all counsel) (EOD 10/24/02) (jb) (Entered: 10/24/2002)
10/25/2002	254	ORDER by Judge Todd J. Campbell granting deft's motion for partial

summary judgment [155-1] and all antitrust claims are dismissed. The trial remains scheduled for 12/11/02. (cc: all counsel, Atty General of TN) (EOD 10/25/02) (jb) Modified on 10/25/2002 (Entered: 10/25/2002)

10/25/2002 255 ORDER by Judge Todd J. Campbell denying defts' motion for summary judgment [218-1]. By contemporaneous Order [254-1], the Court has granted defts' motion for partial summary judgment [155-1] and dismissed pltf's antitrust claims. The pending motion for summary judgment is moot as to Count IV (antitrust). Th Court has previously denied a motion for summary judgment by the defts on Count III (procedural due process) and Count VI (unfair, unreasonable, and oppressive action under state law) because there are genuine issues of material fact in dispute. The material facts remain in dispute. The motion for summary jdugment is denied as to Count III and Count IV. The motion as to Count VII (equal protection) is denied because discovery has not been completed on that issue. The motion as to Count II (substantive due process) is denied bacause it is readily apparent from the voluminous record that there are material facts in dispute on the issue. Ronnie Carter's motion for summary judgment is denied. The trial remains

scheduled for 12/11/02. (cc: all counsel) (EOD 10/25/02) (jb) (Entered: 10/25/2002)

10/25/2002 256 ORDER by Judge Todd J. Campbell denying Brentwood Academy's second motion for partial summary judgment [222-1]. Defts' motion to strike the affidavits of Billy Lynch and Richard Anderson [240-1] and motion to strike undisputed facts numbered 9, 16-17, 19-20, 47-59, and 83-84 [242-1] are moot. Brentwood Academy's motion for oral argument on its second motion for partial summary judgment [225-1] is denied.(cc: all counsel) (EOD 10/25/02) (jb) (Entered: 10/25/2002)

10/25/2002 257 ORDER by Judge Todd J. Campbell denying defts' motion to strike [233-1] (cc: all counsel) (EOD 10/25/02) (jb) (Entered: 10/25/2002)

10/28/2002 258 RESPONSE by pltf Brentwood Academy to defts' motion for review to appeal the September 4, 2002 Order DE #211 [216-1] (w/attached exhs. A-C) (jb) (Entered: 10/29/2002)

10/28/2002 259 ORDER by Judge Todd J. Campbell denying motion for review to appeal the September 4, 2002 Order DE #211 [216-1]. Defts shall supplement the interrogatory responses required by the Magistrate Judge's Order [211-1] no later

		than 11/15/02. (cc: all counsel) (EOD 10/29/02) (jb) (Entered: 10/29/2002)
11/08/2002	260	OBJECTIONS by defts to the testimony of pltf's damages experts. (dlt) (Entered: 11/12/2002)
11/08/2002	261	OBJECTIONS by defts to the testimony of pltf's school choice experts. (dlt) (Entered: 11/12/2002)
11/08/2002	262	MOTION by pltf Brentwood Academy to reconsider orders granting defts' mtn for partial summary judgment & denying pltf's second mtn for partial summary judgment on Federal Antitrust Claims . (dlt) (Entered: 11/12/2002)
11/08/2002	263	MEMORANDUM by pltf Brentwood Academy in support of motion to reconsider orders granting defts' mtn for partial summary judgment & denying pltf's second mtn for partial summary judgment on Federal Antitrust Claims [262-1]. (w/ attachments) (dlt) (Entered: 11/12/2002)
11/08/2002	264	MOTION by pltf Brentwood Academy in limine to exclude the expert testimony of C. Thomas McMillen and George H. Sage . (dlt) (Entered: 11/12/2002)
11/08/2002	265	MEMORANDUM by pltf Brentwood Academy in support of motion in limine to exclude the expert testimony of C.

Thomas McMillen and George H. Sage [264-1]. (w/ att'd exhibits A-B) (dlt) (Entered: 11/12/2002)

11/08/2002 266 MOTION by pltf Brentwood Academy in limine to exclude ex post facto evidence of defts' alleged governmental interests . (dlt) (Entered: 11/12/2002)

11/08/2002 267 MEMORANDUM by pltf Brentwood Academy in support of motion in limine to exclude ex post facto evidence of defts' alleged governmental interests [266-1]. (w/ att'd exhibit A) (dlt) (Entered: 11/12/2002)

11/08/2002 268 MOTION by pltf Brentwood Academy for oral argument on pltf's mtns in limine and mtn to reconsider . (dlt) (Entered: 11/12/2002)

11/12/2002 269 ORDER by Judge Todd J. Campbell denying motion to reconsider orders granting defts' mtn for partial summary judgment & denying pltf's second mtn for partial summary judgment on Federal Antitrust Claims [262-1] (cc: all counsel) (EOD 11/13/02) (jb) (Entered: 11/13/2002)

11/12/2002 270 ORDER by Judge Todd J. Campbell denying motion for oral argument on pltf's mtns in limine and mtn to reconsider [268-1]. All motions in limine will be considered at the pretrial

		conference scheduled for 11/25/02. (cc: all counsel) (EOD 11/13/02) (jb) (Entered: 11/13/2002)
11/20/2002	271	EXHIBIT list by defts (jb) (Entered: 11/21/2002)
11/20/2002	272	WITNESS list submitted by defts (jb) (Entered: 11/21/2002)
11/20/2002	273	RESPONSE by defts to pltf's motion in limine to exclude the expert testimony of C. Thomas McMillen and George H. Sage [264-1] (jb) (Entered: 11/21/2002)
11/20/2002	274	RESPONSE by defts to motion in limine to exclude ex post facto evidence of defts' alleged governmental interests [266-1] (jb) (Entered: 11/21/2002)
11/20/2002	275	WITNESS list submitted by pltf Brentwood Academy (jb) (Entered: 11/21/2002)
11/20/2002	276	EXHIBIT list by pltf Brentwood Academy (jb) (Entered: 11/21/2002)
11/20/2002		PROPOSED Joint Proposed Pre-Trial Order (jb) (Entered: 11/21/2002)
11/20/2002	277	RESPONSE by pltf Brentwood Academy to defts' objection to testimony of "damages" experts [260-1] (w/attached exhs. A & B) (jb) (Entered: 11/21/2002)

11/20/2002	278	RESPONSE by pltf Brentwood Academy to defts' objection to testimony of pltf's experts Guthrie, Goldring and Obel-Omia [261-1] (jb) (Entered: 11/21/2002)
11/22/2002	279	JOINT PRE-TRIAL ORDER approved by Judge Todd J. Campbell: This action is assigned for a bench trial beginning at 9:00 a.m. on 12/11/02. The estimated length of trial is seven business days, from 12/11/02 to 12/19/02. If not concluded by 12/19/02, the trial will resume on 1/2/03, and continue until completed. The ptys agree that there is some possibility of settlement prior to trial. (cc: all counsel) (EOD 11/22/02) (jb) (Entered: 11/22/2002)
11/23/2002	280	MOTION by pltf for leave to contact former TSSAA employees and board members (w/attachment) (jb) (Entered: 11/25/2002)

* * *

11/25/2002	282	ORDER by Judge Todd J. Campbell: Pretrial Conference held 11/25/02. For the reasons explained from the bench, pltf's motion in limine to exclude ex post facto evidence of defts' alleged governmental interests [266-1] is denied. Defts' objection to the testimony of pltf's "damages" expert [260-1] is denied. Defts' objection to the testimony of pltf's

		"School Choice" experts [261-1] is denied. Pltf's motion in limine to exclude the expert testimony of C. Thomas McMillen and George H. Sage [264-1] is granted in part and denied in part. Pltf's motion for leave to contact former TSSAA employees and board members [280-1] is granted with limitation. Pretrial Briefs ddl set 12/4/02. (cc: all counsel) (EOD 11/25/02) (jb) (Entered: 11/25/2002)
11/27/2002	283	TRANSCRIPT filed of the proceedings-motion rulings and pretrial conference before the Hon. Todd J. Campbell on 11/25/02; CR: James A. Spence (jb) (Entered: 11/27/2002)
11/27/2002	284	ORDER by Magistrate Judge Juliet E. Griffin: There are no matters pending before the Magistrate Judge. All ddls have passed. There are no pending motions. The Clerk is directed to forward the portions of the file that were in the office of the undersigned to the Hon. Todd J. Campbell prefatory to the 12/11/02 trial. There will be no further proceedings before the Magistrate Judge in this case. (cc: all counsel) (EOD 12/2/02) (jb) (Entered: 12/02/2002)
12/03/2002	285	SUPPLEMENTAL LIST by defts of exhibits re [271-1] (jb) (Entered: 12/03/2002)

12/03/2002	286	MOTION by pltf Brentwood Academy to modify trial schedule (jb) (Entered: 12/04/2002)
12/04/2002	287	ORDER by Judge Todd J. Campbell granting in part and denying in part motion to modify trial schedule [286-1]: To hold Court on Saturday, 12/14/02, is denied; to extend the trial through 12/20/02 is granted, if necessary. EOD 12/4/02 (cc: all counsel) (gi) (Entered: 12/04/2002)
12/04/2002	288	PRETRIAL BRIEF FILED by defts (jb) (Entered: 12/05/2002)
12/04/2002	289	RESPONSE by defts to motion to modify trial schedule [286-1] (jb) (Entered: 12/05/2002)
12/04/2002	290	FINAL PRE-TRIAL MEMORANDUM FILED by pltf Brentwood Academy (w/attached exhs. A-E) (jb) (Entered: 12/05/2002)
12/06/2002	291	MOTION by pltf Brentwood Academy to exclude defts' trial exhibits on collegiate or professional athletic recruiting (w/collective attachment one-five) (jb) Modified on 12/06/2002 (Entered: 12/06/2002)
12/06/2002	292	SUPPLEMENTAL TRIAL EXHIBIT list by pltf Brentwood Academy (jb) (Entered: 12/09/2002)

12/09/2002	293	RESPONSE by defts to pltf's motion to exclude defts' trial exhibits on collegiate or professional athletic recruiting [291-1] (jb) (Entered: 12/10/2002)
12/10/2002	294	STIPULATED TRIAL EXHIBITS list by pltf & defts (jb) (Entered: 12/11/2002)
12/11/2002	295	CLERK'S RESUME: Bench Trial held 12/11-13/02, 12/16-20/02, 12/30-31/02 ; w/attached exhibit and witness list; C/R: Jim Spence (jb) (Entered: 01/09/2003)
01/13/2003	296	MEMORANDUM OF THE COURT (cc: all counsel) (EOD 1/13/03) (jb) (Entered: 01/13/2003)
01/13/2003	297	ORDER by Judge Todd J. Campbell: For the reasons described in the accompanying memorandum [296-1], the Court finds that judgment shall enter for Brentwood Academy against the TSSAA on the First Amendment "as applied" claim; the Fourteenth Amendment Substantive Due Process "as applied" claim; and the Fourteenth Amendment Procedural Due Process claim. Judgment shall enter for Brentwood Academy against Ronnie Carter, individually, on the Fourteenth Amendment Procedural Due Process claim. Judgment shall enter for Ronnie Carter, individually, on the First Amendment "as applied" claim and the Fourteenth Amendment Substantive Due Process "as applied" claim. It is

unnecessary for the Court to reach the Fourteenth Amendment Equal Protection "as written and as applied" claim or the Substantive Due Process "as written" claim. The Court declines to take supplemental jurisdiction over the state law claim. As relief for the above constitutional violations, the 8/23/97 penalties (Pltf's Exh 88) imposed by the TSSAA against Brentwood Academy are declared void and enjoined. Terminating case. (cc: all counsel) (EOD 1/13/03) (jb) (Entered: 01/13/2003)

02/10/2003 298 NOTICE OF APPEAL by deft TN Secondary School, deft Ronnie Carter from Dist. Court decision [297-2] (mk) (Entered: 02/10/2003)

02/10/2003 299 RECEIVED filing fee in the amt of $105, receipt no. 90192 (mk) (Entered: 02/10/2003)

* * *

02/11/2003 300 LETTER from Appeals Clerk to all counsel re: designation of record (mk) (Entered: 02/11/2003)

02/11/2003 SR Record on Appeal sent to 6th CCA re [298-1] (mk) (Entered: 02/11/2003)

* * *

02/24/2003	311	NOTICE OF CROSS APPEAL by pltf Brentwood Academy from Dist. Court decision [254-1] (mk) (Entered: 02/26/2003)
02/25/2003	307	MOTION by pltf Brentwood Academy to modify this Court's order of 2/19/03 pending appeal (mk) (Entered: 02/26/2003)

* * *

02/27/2003	312	RECEIVED filing fee in the amt of $105, hand receipt no. 36401 for cross appeal by Brentwood Academy (mk) (Entered: 02/28/2003)
02/28/2003		SR Record on Appeal sent to 6th CCA re [311-1] cross appeal of Brentwood Academy (mk) (Entered: 02/28/2003)
03/03/2003	313	NOTIFICATION by 6th CCA of Appellate Docket Number 03-5245 and assignment of Mary Patterson case mgr (mk) (Entered: 03/04/2003)
03/03/2003	314	RECEIVED filing fee in the amt of $105, receipt no. 90540 (duplicate of hand receipt) (mk) (Entered: 03/04/2003)
03/05/2003		REMARK: copy of transcript order form (mk) (Entered: 03/06/2003)
03/10/2003	315	RESPONSE by defts TN Secondary School and Ronnie Carter to pltf's mtn to

		modify this Court's order of 2/19/03 pending appeal [307-1] (mk) (Entered: 03/11/2003)
03/10/2003	316	RESPONSE by defts TN Secondary School and Ronnie Carter to pltf's mtn to require defts to post bond pending appeal [308-1] (mk) (Entered: 03/11/2003)
03/13/2003	317	ORDER by Judge Todd J. Campbell denying mtn to require defts to post bond pending appeal [308-1] and denying mtn to modify this Court's order of 2/19/03 pending appeal [307-1] EOD 3/14/03 (cc: all counsel) (mk) (Entered: 03/14/2003)
03/17/2003	318	NOTIFICATION by 6th CCA of Appellate Docket Number 03-5278 and assignment of Mary Patterson as case mgr (mk) (Entered: 03/18/2003)
03/21/2003	319	DESIGNATION by defts of record on appeal with attached Exh A (mk) (Entered: 03/24/2003)
03/21/2003	320	DESIGNATION by pltf Brentwood Academy of designation of record on appeal with attached Exhs A & B (mk) Modified on 03/24/2003 (Entered: 03/24/2003)
04/23/2003	321	TRANSCRIPT filed of trial proceedings on 12/11/02 (vol 1) (mk) (Entered: 04/23/2003)

04/23/2003	322	TRANSCRIPT filed of trial proceedings before Judge Campbell on 12/12/02 (vol. 2) (mk) (Entered: 04/23/2003)
04/23/2003	323	TRANSCRIPT filed of trial proceedings before Judge Campbell on 12/13/02 (vol 3) (mk) (Entered: 04/23/2003)
04/23/2003	324	TRANSCRIPT filed of trial proceedings before Judge Campbell on 12/16/02 (vol. 4) (mk) (Entered: 04/23/2003)
04/23/2003	325	TRANSCRIPT filed of trial proceedings before Judge Campbell on 12/17/02 (vol. 5) (mk) (Entered: 04/23/2003)
04/23/2003	326	TRANSCRIPT filed of trial proceedings before Judge Campbell on 12/18/02 (vol. 6) (mk) (Entered: 04/23/2003)
04/23/2003	327	TRANSCRIPT filed of trial proceedings before Judge Campbell on 12/19/02 (vol. 7) (mk) (Entered: 04/23/2003)
04/23/2003	328	TRANSCRIPT filed of trial proceedings before Judge Campbell on 12/20/02 (vol. 8) (mk) (Entered: 04/23/2003)
04/23/2003	329	TRANSCRIPT filed of trial proceedings before Judge Campbell on 12/30/02 (vol.9) (mk) (Entered: 04/23/2003)
04/23/2003	330	TRANSCRIPT filed of trial proceedings before Judge Campbell on 12/31/02 (vol. 10) (mk) (Entered: 04/23/2003)

03/17/2006	331	USCA INFORMATION COPY AND JUDGMENT as to [298] and [311]: The judgment of the district court is affirmed in part, reversed in part, and the case is remanded for further proceedings consistent with the opinion of this court. (gi,) Modified on 3/22/2006 (mk,). (Entered: 03/21/2006)
07/11/2006	332	ORDER of USCA as to [298] [311] notice of appeal denying mtn for rehearing en banc (mk,) Modified on 7/12/2006 (mk,). (Entered: 07/11/2006)
07/11/2006	333	MANDATE of USCA as to [311] Notice of Appeal filed by Brentwood Academy, [298] Notice of Appeal filed by Tennessee Secondary School Athletic Association, Ronnie Carter (mk) (Entered: 07/12/2006)

* * *

09/28/2006	339	NOTICE from US Supreme Court that petition for writ of certiorari was filed as case 06-427 (mk,) (Entered: 10/31/2006)
01/10/2007	340	ORDER: The Clerk is directed to close the file administratively pending conclusion of the current appeal . Signed by Judge Todd J. Campbell on 1/10/07. (km,) (Entered: 01/10/2007)

01/12/2007	341	NOTICE from Supreme Court that the petition for a writ of certiorari is granted. (km,) (Entered: 01/16/2007)

MEMORANDUM

TO: State Board of Education Members

FROM: C. Brent Poulton

DATE: May 12, 1989

RE: NOTES PERTAINING TO THE AGENDA FOR THE MAY BOARD MEETING

* * * *

II. REPORTS

* * * *

C. Annual Review and Report on Tennessee Secondary School Athletic Association Rules

The State Board delegates responsibility for high school competitive athletics to the TSSAA. Each year we reiterate this relationship, and ask the TSSAA for a report on the status of high school athletics. The event also provides an opportunity for you to ask any questions of TSSAA officials on the subject.

D. Report on Legislative Actions of 1989 Tennessee General Assembly

Chuck Cagle will summarize actions of the General Assembly.

* * * *

State of TennesseeState
Board of Education
400 Deaderick Street
Suite 200, Citizens Plaza
Nashville, Tennessee 37243-1050
615-741-2966

MEMORANDUM

TO: Members, State Board of Education

FROM: C. Brent Poulton
Executive Director

DATE: May 15, 1991

RE: NOTES FOR THE MAY 31, 1991 BOARD MEETING

* * * *

IV. Career Ladder Items

* * * *

D. Consideration of Rules and Regulations of the Tennessee Secondary School Athletic Association

Our rules call for an annual consideration by the Board of TSSAA rules and regulations. In effect, this amounts to reaffirmation of the Board's decision to delegate responsibility for management of secondary school athletics to TSSAA.

* * * *

State of TennesseeState
Board of Education
400 Deaderick Street
Suite 200, Citizens Plaza
Nashville, Tennessee 37243-1050
615-741-2966

MEMORANDUM

TO: Members, State Board of Education

FROM: C. Brent Poulton /s/ C. Brent Poulton
Executive Director

DATE: March 13, 1992

RE: NOTES FOR THE MARCH 27, 1992 BOARD MEETING

* * * *

V. **Other Items**

A. Consideration of Current Rules and Regulations of the Tennessee Secondary Schools Athletic Association

Each year we ask the Tennessee Secondary Schools Athletic Association (TSSAA) to present their rules and regulations for blanket approval by the State Board of Education. This is somewhat ceremonial, though important as a means of reminding the world that TSSAA works as an agent on behalf of the State Board of Education. We have asked Bob Baldridge to characterize changes in regulations which have occurred over the past year, and also to identify issues regarding athletics which the TSSAA is currently

concerned.

* * * *

State of TennesseeState
Board of Education
400 Deaderick Street
Suite 200, Citizens Plaza
Nashville, Tennessee 37243-1050
615-741-2966

MEMORANDUM

TO: Members, State Board of Education

FROM: C. Brent Poulton /s/ C. Brent Poulton
Executive Director

DATE: May 12, 1993

RE: Notes for May 21, 1993 Board Meeting

* * * *

III.B. TSSAA Rules and Regulations

Competitive athletics is a big part of the high school experience. The Tennessee Secondary School Athletic Association (TSSAA) manages these activities as sanctioned by the State Board of Education. This annual report keeps members informed of issues and changes in TSSAA policies.

* * * *

MINUTES
STATE BOARD OF EDUCATION
MAY 27, 1988

MEETING CALLED TO ORDER

The State Board of Education met in Room C1-124 of the Cordell Hull Bldg., Nashville, Tennessee, on May 27, 1988. Chairman Nelson ANDREWS called the meeting to order at 9:00 a.m.

****

III. OTHER ITEMS

****

H. REVIEW OF TENNESSEE SECONDARY SCHOOLS ATHLETIC ASSOCIATION RULES

Chuck CAGLE, SBE staff member, reviewed the status of Tennessee Secondary Schools Athletic Association, (TSSAA) with regard to Board rules. In 1984 the Board delegated to TSSAA the authority to promulgate rules relative to secondary school athletic events. That action called for a periodic review and approval of the operational authority delegated to TSSAA. The staff of the State Board of Education conducted the review and recommended that the TSSAA rules be approved and the TSSAA be designated to continue as the agency to govern secondary athletics for the Board.

ACTION: KEMP moved approval of the review of TSSAA rules and the continued designation of the TSSAA to govern athletics in Tennessee secondary schools. BOND seconded. ROLL CALL VOTE. MOTION PASSED UNANIMOUSLY.

* * * *

MINUTES
STATE BOARD OF EDUCATION
MAY 31, 1991

MEETING CALLED TO ORDER

The State Board of Education met in the offices of the State Board of Education, Nashville, Tennessee, on May 31, 1991. Chairman Nelson Andrews convened the meeting at 8 a.m.

***

IV. CAREER LADDER AND OTHER ITEMS

***

D. Consideration of Current Rules and Regulations of the Tennessee Secondary School Athletic Association

Bob BALDRIDGE, Associate Director of the Tennessee Secondary School Athletic Association, made a presentation on the current status of participation in secondary school athletic programs. He noted that over 90,000 students in grades 9-12 participate. Of those participating, 1/3 are girls and 2/3 are boys. In addition, a large number of students at the seventh and eighth grade level participate in middle school and junior high programs which are not directly regulated by TSSAA. The TSSAA organization has a budget of approximately $1 million and 330 high schools as members. He noted the advantages of TSSAA membership to schools in providing catastrophic insurance at a group rate which is more affordable than each individual school obtaining a policy.

BALDRIDGE noted that the main functions of TSSAA are in providing officials, setting the expectations for control of athletic events, and determining eligibility of student athletes. TSSAA rules also require that schools be in session in order for their students to participate in athletic events. This requirement has served as an incentive for many communities to finalize local school system budgets and to begin school in a timely fashion each fall.

Bob BYRD, SBE member, inquired about the procedures used by TSSAA in determining the site for state championship events in football and basketball. Bob BALDRIDGE reviewed the process used in determining the preference of member schools for the location of the state tournament events.

ACTION: Dick RAY moved approval of the current rules for TSSAA. Cynthia BOND seconded. ROLL CALL VOTE. MOTION PASSED UNANIMOUSLY.

* * * *

STATE BOARD OF EDUCATION UPDATE

State Board of Education 400 Deaderick Street Suite 200, Citizens Plaza Nashville, Tennessee 37243-1030 (615) 741-2966 Nelson Andrews, Chairman C. Brent Poulton, Exec. Director

The State Board of Education met on Friday, May 31, 1991. If you have any questions or would like to request copies of agenda items or reports approved by the Board, please call the State Board of Education office at (615) 741-2966.

***

TENNESSEE SECONDARY SCHOOL ATHLETIC ASSOCIATION. The Board approved the current rules and regulations of the Tennessee Secondary School Athletic Association. TSSAA officials also provided the Board with a report on current levels of participation by students in interscholastic athletic programs and areas of continuing activity and concern for secondary athletic programs within the state.

****

FOR IMMEDIATE RELEASE Contract:
Ken Nye State Board of Education (615) 741-2966

State of Tennessee
State Board of Education
400 Deaderick Street
Suite 200, Citizens Plaza
Nashville, Tennessee 37243-1030
615-741-2966

STATE BOARD OF EDUCATION MEETS

NASHVILLE, Tennessee - The State Board of Education will convene for a regular meeting on Friday, March 27, 1992.

***

The State Board of Education will also receive other reports and consider additional items at the meeting which will include: (1) new licensure standards for principals, (2) the annual plans for the School Board Training Academy for local school board members and the Tennessee Executive Development Program for superintendents, (3) the annual report on teacher candidate test results, (4) the rules and regulations of the Tennessee Secondary School Athletic Association, and (5) the six-year program plan for Adult Basic Education in Tennessee.

MINUTES
State Board of Education
March 27, 1992

MEETING CALLED TO ORDER

The State Board of Education met in the offices of the State Board of Education, Nashville, Tennessee, on March 27, 1992. Chairman Nelson Andrews convened the meeting at 8:00 a.m.

* * * *

V. OTHER ITEMS

A. Consideration of Current Rules and Regulations of the Tennessee Secondary Schools Athletic Association

Bob BALDRIDGE, Associate Executive Director for the Tennessee Secondary Schools Athletic Association (TSSAA), provided a report to the Board and reviewed the current status of the TSSAA Rules and Regulations. The current areas of activity and issues involved in secondary school athletic programs include the interest of middle schools in being regulated by TSSAA, the proposal by some public schools for separate state tournaments for private schools, the "red-shirting" of students during the middle grades, the resident requirement of students with divorced parents who reside in different school zones or districts, and the classification of schools. BALDRIDGE concluded his report by inviting board members to attend any TSSAA sponsored events or tournaments. He noted the high attendance at the recent state basketball tournaments for both girls and boys teams.

ACTION: Dick RAY moved approval of the rules and regulations of the Tennessee Secondary Schools Athletic Association. Bill SWAIN seconded. ROLL CALL VOTE. MOTION PASSED UNANIMOUSLY.

Adjourned: 11:00

* * * *

STATE BOARD OF EDUCATION UPDATE

State Board of Education
400 Deaderick Street
Suite 200, Citizens Plaza
Nashville, Tennessee 37243-1030
(615) 741-2966
Nelson Andrews, Chairman
C. Brent Poulton, Exec. Director

The State Board of Education met on Friday, March 27, 1992. If you have any questions or would like to request copies of agenda items or reports approved by the Board, please call the State Board of Education office at (615) 741-2966.

CURRENT RULES AND REGULATIONS OF THE TENNESSEE SECONDARY SCHOOLS ATHLETIC ASSOCIATION. The Board approved the current rules and regulations of the Tennessee Secondary Schools Athletic Association. TSSAA officials also provided the State Board of Education with a report on current areas of activity and issues involved in secondary school athletic programs in Tennessee. These areas include the interest of middle schools in being regulated by TSSAA, the proposal from some public schools for separate state tournaments for private schools, the "red-shirting" of students during the middle grades, the resident requirement for students with divorced parents who reside in different school zones or districts, and the classification of schools.

* * * *

MINUTES
State Board of Education
July 29, 1994

MEETING CALLED TO ORDER

The State Board of Education met on July 29, 1994 in Nashville, Tennessee, in the offices of the State Board of Education.

* * * *

VI. Other Items

***

h. Remarks by Ronnie Carter, TSSAA

Brent Poulton, SBE Executive Director, said the Board invited Ronnie Carter, Executive Director of the Tennessee Secondary Schools Athletic Association (TSSAA) to comment on its lack of minority hiring on the TSSAA staff.

Ronnie Carter reviewed the history of the TSSAA organization. He said the organization currently employs four administrative staff and six support staff. The organization is controlled by a nine member board representing the member schools. Two of the TSSAA Board members are minority individuals. Overall, the association annually deals with budget limitations which restrict hiring opportunities, along with a history of limited turnover in positions. In January of this year, the TSSAA Board took action to look at the employment of an additional staff position and indicated that the position should be filled with a minority individual.

Carter noted that 67% of TSSAA's budget is composed

of receipts from the state football playoffs and the state basketball tournaments. The receipts from both these major events are annually affected by weather. He also noted that the recent interest of middle schools in developing a more formal relationship with TSSAA had led to an affiliate relationship with middle school athletic association for those schools who are concerned with rules, liability, and the proliferation of locally sponsored middle school tournaments. This interest by Middle Schools in becoming TSSAA members is an area where the expansion of staff will likely occur.

Board member Byrd comments on the Board's overall concern that TSSAA reflect hiring practices which are the same as those expected for local schools.

Chairman Ray requested Carter to provide the Board with an update at the Board's September Board meeting as to the progress being made by TSSAA in resolving this issue.

Board member Beasley asked about the current activities of middle schools. She expressed her concern that middle school programs should be devoted to the participation of all students in intramurals and less concerned with competitive athletics.

The Board adjourned and then reconvened in a meeting of the Board of Directors for the Tennessee Volunteer Public Education Trust Fund Foundation.

* * * *

MINUTES
STATE BOARD OF EDUCATION
SEPTEMBER 29, 1994

MEETING CALLED TO ORDER:

The State Board of Education met in the small assembly room for the city/county building in Knoxville, Tennessee on September 29, 1994.

***

VII. Other Items

***

d. Remarks from TSSAA

Bob Baldridge, associate executive director for TSSAA, updated the Board on TSSAA's employment practices. He noted the association's ongoing difficulties in maintaining sufficient revenues which would allow the organization to expand its current number of staff positions such that, pending any staff turnover, minority candidates could be considered for vacant staff positions.

Hosea Hill from Memphis, Tennessee spoke about TSSAA's hiring practices. He provided the Board with a number of documents and discussed the history of the questions raised with regard to the employment of minority individuals by TSSAA.

Bob Byrd, SBE member, indicated his ongoing concern that TSSAA rectify this situation. He noted the assurances provided to the Board at both this and the July meeting that the problem would be resolved within the next year or two as sufficient funding is obtained by the organization.

* * * *

MINUTES
STATE BOARD OF EDUCATION
MARCH 14, 1995

MEETING CALLED TO ORDER

The State Board of Education met in its offices on March 14, 1995.

III.e. TSSAA Designation

Patrick Smith, SBE staff, presented the item for information and said item should be deferred for action until the Board's April meeting.

* * * *

State Board of Education
March 14, 1995

Agenda
Other Item III.E.

Tennessee Secondary School Athletic Association Designation

The Background:

The Tennessee Secondary School Athletic Association (TSSAA) is a not for profit corporation whose purpose is "to stimulate and regulate the athletic relations of the secondary schools in Tennessee." State Board of Education rules designate the TSSAA as the authority to supervise interscholastic athletics among public schools. Current board rules also call for annual approval of the rules and regulations in the official TSSAA handbook.

The Proposal:

Due to the nature of the relationship between the TSSAA, a private entity, and the State Board of Education, changes are proposed in the language of the Board's rules on interscholastic athletics. Some confusion has arisen regarding characterizing TSSAA's internal rules as rules promulgated by the State Board of Education under its statutory authority.

The Recommendation:

The SBE staff recommends adoption of the proposed rule.

Proposed Revision: March 14, 1995

PROPOSED RULE REVISION:

Rule 0520-1-2-.08 is amended by deleting it in its entirety and replacing it with the following rule:

The State Board of Education recognizes the value of participation in interscholastic athletics and the role of the Tennessee Secondary School Athletic Association in coordinating interscholastic athletic competition. The State Board of Education authorizes the public schools of the state to voluntarily maintain membership in the Tennessee Secondary School Athletic Association.

MINUTES
STATE BOARD OF EDUCATION
APRIL 19, 1995

The State Board of Education met in its offices on April 19, 1995.

***

IV. E. TSSAA Designation

Patrick Smith, SBA staff attorney, presented the recommendation for a rule revision to clarify the Board's relationship with the Tennessee Secondary Schools Athletic Association (TSSAA).

Minnie Bommer, SBE member, asked if TSSAA membership is voluntary.

Brent Poulton, SBE executive director, said the current rule implies that the Board can change TSSAA rules when in fact the Board does not have that authority. The recommended revision would reflect the reality of the Board's authority regarding the operations of TSSAA.

Smith said in recent court decisions the state does carry liability and that this revision would make clear the relationship of the Board to TSSAA.

Bommer asked if the Board needs to work further to define its relationship with TSSAA.

Poulton said the Board's relationship to TSSAA would be reviewed by Board staff during the coming year.

ACTION: Bob Byrd moved approval of the rule revision. Fielding Rolston seconded. Roll call vote. Motion passed with one no and one abstention.

****

State Board of Education **Agenda**
April 19, 1995 **Other Item IV.E.**

Tennessee Secondary School Athletic Association Designation

The Background:

The Tennessee Secondary School Athletic Association (TSSAA) is a not for profit corporation whose purpose is "to stimulate and regulate the athletic relations of the secondary schools in Tennessee." State Board of Education rules designate the TSSAA as the authority to supervise interscholastic athletics among public schools. Current board rules also call for annual approval of the rules and regulations in the official TSSAA handbook.

The Proposal:

Due to the nature of the relationship between the TSSAA, a private entity, and the State Board of Education, changes are proposed in the language of the Board's rules on interscholastic athletics. Some confusion has arisen regarding characterizing TSSAA's internal rules as rules promulgated by the State Board of Education under its statutory authority.

The Recommendation:

The SBE staff recommends adoption of the proposed rule.

Proposed Revision: April 19, 1995

RULE REVISION:

Rule 0520-1-2-.08 is amended by deleting it in its entirety and replacing it with the following rule:

> The State Board of Education recognizes the value of participation in interscholastic athletics and the role of the Tennessee Secondary School Athletic Association in coordinating interscholastic athletic competition. The State Board of Education authorizes the public schools of the state to voluntarily maintain membership in the Tennessee Secondary School Athletic Association.

TENNESSEE SECONDARY SCHOOL
[TSSAA LOGO] ATHLETIC ASSOCIATION

P.O.Box 319•3333 Lebanon Road•Hermitage, Tennessee 37076
615/889-6740 Fax 615/889-0544

March 18, 1991

Mr. Eddie Krenson, Principal
Father Ryan High School
2300 Elliston Place
Nashville, Tennessee 37203

Dear Eddie:

This is in regard to the situation involving Jim Wood and three students from John Trotwood Moore Middle School that he brought to a basketball game at Father Ryan High School. After reviewing all of the information in the report from Mr. Steve Williams, athletic director, and information received from Mr. Jim Wood, I find there has been no violation of TSSAA rules.

I want to, again, commend both you and Steve for all that you have done and are doing in this area. It is very apparent, from what took place, that the coaches at Father Ryan High School are very well aware of the rules.

If you have any questions regarding this, please feel free to contact me.

Sincerely,

/s/ Ronnie Carter
Ronnie Carter

RC: afg
cc: Mr. Steve Williams

TENNESSEE SECONDARY SCHOOL
[TSSAA LOGO] ATHLETIC ASSOCIATION

P.O.Box 319•3333 Lebanon Road•Hermitage, Tennessee 37076
615/889-6740 Fax 615/889-0544

April 29, 1992

Mr. Bill Brown, Headmaster
Brentwood Academy
219 Granny White Pike
Brentwood, TN 37027

Dear Bill:

This is in regard to a recent letter which I have received from the administration of Harpeth High School. The letter indicates that one of their staff members was at a little league baseball game where a parent informed him they had received two telephone calls from Carlton Flatt concerning their son who is a 5th grade student at Kingston Springs Elementary School. According to the information given to the individual staff member, Coach Flatt had stated to the parents that their son's Jr. Pro coach had recommended him as a football player. The parents were very flattered, particularly because they had made no contact with Brentwood Academy prior to the two telephone calls. In a telephone conversation with Coach Flatt, he related to me that he had called because the name was given to him by a former player at Brentwood Academy. Mr. Flatt stated that he told the parents they had been recommended as a family that would be the kind in which Brentwood Academy would be interested and he would like to sit down and tell them about Brentwood

Academy.

Let me first make certain that we all understand -- this is not a violation of TSSAA rules. As I am sure you are aware, TSSAA rules state that these type calls cannot be made at the 7th grade level or above.

It is, however, a symptom of a much greater problem. The spirit and intent of the rules are very definitely violated, in my opinion. The obvious indication to the parents is that the call would not have been made if the student were not a football player. Again, we make football bigger than life. We aren't looking for solutions -- we are part of the problem.

In addition, there are also many other dominoes that get kicked. If it is not against the rules for Carlton to call a 5th grade student who is a good football players then it is certainly not against the rules for Bill Cox at Harpeth High School or Kurt Page at BGA or Tommy Owen at MBA to call the same student or family any number of times. Now, look at the bigger picture for just a little bit. We are talking about an individual who is 11 years old who, I would hope, is just trying to be a good 5th grade student; and his parents are now receiving telephone calls from one of the top football coaches in the history of athletics in our state.

The other domino that is kicked is the effect that it has on relationships between Brentwood Academy and other member schools of our association. Rest assured, another wedge has been driven between Brentwood Academy and Harpeth High School. I do not have to remind you that Harpeth High School has just completed their first year in the same district. I do not have to tell you what happens with an incident like this when it is relayed three or four other times to other schools. All of this is occurring at a time when the athletic program of Brentwood Academy has been placed on probation for recruiting violations and has

chosen to appeal the decision to the Board of Control. I fully respect the decision of Brentwood Academy to appeal the disciplinary action. The problem that concerns me much more is those two phases coupled with telephone calls from a coach to the parents of a student that have occurred as the result of a Jr. Pro football coach recommending a 5th grade student who is 11 years old as a football player. There has to be something sad about the message we sent. I know you hope the message is that we are interested in a family. Unfortunately, I feel the message is a Jr. Pro coach and former player at Brentwood Academy has recommended a fifth grader as a football player and the football coach at Brentwood Academy has shown an interest because football is involved. As long as that message is perceived, we will continue to have problems.

I will write a letter to Harpeth High School informing them that no violation of TSSAA rules has occurred.

Sincerely,

Ronnie Carter

RC:wmb

cc: Mr. Carlton Flatt
Mr. Gary Hines

0520-1-2-.08 Interscholastic Athletics.

(6) The State Board of Education recognizes and designates the Tennessee Secondary School Athletic Association as the organization to supervise and regulate the athletic activities in which the public junior and senior high schools of Tennessee participate on an interscholastic basis. Junior high schools must include grade nine in order to qualify for membership. The authority granted herein shall remain in effect until revoked.

(7) The State Board of Education shall annually approve the current rules and regulations as stated in the Official Handbook of the Tennessee Secondary School athletic Association.

Statutory Authority T.C.A. 49-1 -302. Filed March 16, 1992; effective June 29, 1992.

July 6, 1995

WARRIOR!

I would like to take this opportunity to **WELCOME** you to the 1995 Riverdale Warrior football team.

We are looking forward to the upcoming season with great enthusiasm and high expectations. Our opening game with Smyrna is a little over eight weeks away and we must be totally committed to the task ahead of us.

The Riverdale High School motto is "A COMMITMENT TO EXCELLENCE" and that is what we will strive for this season. With your commitment and dedication we will achieve our goal of being the "1995 REGION 4AAAAA CHAMPIONS" – on the way to "STATE CHAMPIONS".

On Monday, July 24th, Dr. O. Tom Johns and staff will physicals, free of charge, from 5:00 p.m. to 8:00 p.m. at Riverdale. Please complete the enclosed form and bring it with you on the day of the physicals. Report directly to the Riverdale High School football locker room.

ALL players will report to practice on Tuesday, July 25, 1995 at 4:00-8:00 p.m.

SEE YOU SOON!

Coach Gary Rankin

1. **Monday, July 24, 1995 physicals 5:00 p.m. – 8:00 p.m.**

BRENTWOOD ACADEMY
219 Granny White Pike Brentwood, Tennessee 37027
(615) 377-3632 fax: (615) 377-3709

Athletic Director: Carlton Flatt Asst. Athletic Director: Buddy Alexander

April 23, 1997

Having officially enrolled at Brentwood Academy, the TSSAA allows you to participate in spring football practice. If you are not currently involved in a sport at your school, we would like to invite you to practice with your new team. Equipment will be given out April 30th at 3:30 downstairs In the locker room.

Spring practice will begin May 1, 1997 and conclude on May 14, 1997. Practice begins at 3:20 and will be finished by 4:45. Due to the inconvenience to your parents, please do not feel that you must attend every practice. However, I do feel that getting involved as soon as possible would definitely be to your advantage.

In the near future, you will receive a letter outlining our summer workout program. If you have any questions, please call me at school 373-0611 x 119, or at home 373-0475. We are certainly glad that you decided to become an ***Eagle***.

Your Coach,

Carlton Flatt

[LOGO] Brentwood Academy

219 Granny White Pike
Brentwood, TN 37027
Phone (615) 373-0611
Fax (615) 377-3709

Date: 5/29/97

TO: Ronnie Carter

Fax #: 615-889-0544

From: Carlton Flatt

# of pages including cover: 3

Message: Concerning information per our conversation.

Sent to Ronnie Carter 5/29/97 in response to questions received by Coach Flatt over the phone

1. Flatt's connection with:
   A. Bart King
   - through AAU basketball, lives in Brentwood
   - allowed AAU to use our gym with his girls and boys teams

   B. John Patton
   - father of Mickie, a current sophomore student
   - coached Brentwood Academy's middle school boys basketball team with Mickey Jacobs, another Brentwood Academy father
   - uses our gym for AAU basketball team which includes several of our players

   C. Kevin Armstrong
   - never heard of him until fall of '96 when he called me to tell him about two students at Neely's Bend who would benefit from Brentwood Academy
   - I told him that the parents of these students should contact Mrs. Brasher, Director of Admission, if interested.

2. When did Flatt meet?

Glean Eddy and Jesse Kellogg applied for admission to Brentwood Academy, went through the admission process and were accepted for the 1997-98 school year. As a member of the Admission Committee, I met these two students when they were
interviewed.

Jacques Currey—I met him at AAU practice on the Brentwood Academy campus

- went through the admission process and was accepted for the 1996–97 school year—did not matriculate.

- reapplied, went through the admission process and was accepted for the 1997–98 school year

Jermonde Davis

- went through the admission process and was accepted for the 1996–97 school year—did not matriculate
- reapplied, went through the admission process and was accepted for the 1997–98 school year.

George King—Our records show that he called to make an appointment with Nancy Brasher but did not show up.

Jarvis Currey and Drew Wells—I do not know them.

Altony Williams—I have not met him.

- He applied to Brentwood Academy but was not accepted for admission for the 1997–98 school year

3. Students who have applied to Brentwood Academy:
Neely's Bend—Glean Eddy, Jesse Kellogg
East—Jaques Currey, Altony Williams
Cameron—Jermonde Davis, Antoine Owens, Adrian Davis
Goodlettesville—no applicants

4. Kevin Armstrong called me about attending one of our games and a possible gate where coaches could get in free. I told him I would leave two tickets at the ticket both in his name but that they could not be used by any student. I was unaware that he and Glean Eddy attended a game until Mary Marshall, Glean's mother, called me and told me that the coaches at Hunter's Lane were upset about Kevin taking him to one of our games. She also told me that Coach Pigue at Hunter's Lane had made statements to Glean's brother who attends or attended Hunter's Lane that we were trying to recruit Glean. I called Coach Pigue to assure him that I had nothing to do with Glean coming to our game

and that if there were any problems I would come over there and discuss the situation. Coach Pigue told me that there was not a problem and that Mrs. Eddy was just shopping her son.

5. Students who participated in Brentwood Academy's spring practice include:
Drew Allan—Brentwood Middle
Jermonde Davis—Cameron
Glean Eddy—Neely's Bend
Chandler Garrick—Ensworth
Jesse Kellogg—Neely's Bend
Josh King—Mt. Juliet
Ray Marley—Grassland Middle
Brett McCord—Wright Middle
Graham Nelson—Brentwood Middle
Jake Slaughter—Woodland Middle
Chris Smithson—Woodland Middle
Zach Winter—David Lipscomb

I have neither contacted nor asked anyone, in particular Bart King and John Patton, to contact the above-listed students about attending Brentwood Academy. If you would like to speak with Bart King or John Patton they can be reached at the following numbers: Bart King 366-6565 W; John Patton 862-7572 W.

/s/ Carlton Flatt
Carlton Flatt
Athletic Director

JA-124

TENNESSEE SECONDARY SCHOOL
[TSSAA LOGO] ATHLETIC ASSOCIATION

P. O. BOX 319 • 3333 LEBANON ROAD •
HERMITAGE, TENNESSEE 37076
615/889-6740
FAX 615/889-0544

MEMORANDUM

Date: May 30, 1997

TO: Bill Brown, Headmaster

FROM: Ronnie Carter, Executive Director

Please respond to the following questions:

1. Give us policy of admitting any coaches and any athletes (middle school, junior pro, etc.) to any contests? Has this been done in the last three years in any sport for anyone other than Kevin Armstrong?

2. In regard to spring practice, are students from schools other than Brentwood Academy permitted to attend spring practice in boys' basketball or girls' basketball? Please give following information:

Number attending spring practice not in your building. Please give names and schools.

	1997	1996	1995
Football	12 (names and schools already provided)		
Boys' Basketball			
Girls' Basketball			

3. Since the students cannot drive, how do they get to Brentwood Academy and how do they get home?

4. Some students are attending spring practice while enrolled in another TSSAA member school while other students are not permitted to attend practices. How do you make this determination? Can anyone (accepted or not accepted, etc.) go through spring practice?

5. The information received from Coach Flatt indicates Jacques Curry and Jermonde Davis have gone through the admission process and have been accepted. Please indicate how the $300 fee was paid in each case.

6. Please inform us of the following: Since Mr. Patton is a Brentwood Academy coach, what students (names and grades) are on his AAU team? Please give practice dates and games that have been played by his AAU team.

7. Coach Flatt has indicated meeting students at AAU practice. Please give number of times any other coaches from Brentwood Academy have been present at AAU practices. Please list individually.

8. What is Brentwood Academy's policy in regard to use of facilities? Who else uses facilities? How many years have AAU teams used facilities? Please give teams, coaches, and

age groups for last three years. Is there a fee charged? Who provides insurance? If not Brentwood Academy, do you have a copy of the certificate of insurance provided by this group or other groups on file?

9. Coach Flatt states that he has neither contacted or asked anyone to contact the students provided on a list to him. Please help us clarify.

a) Have any letters, notes, etc. been written to students or parents by Coach Flatt or any other coach?

b) Have there been any personal conversations prior to spring practice with students or parents?

c) Has Coach Flatt called any of the students or parents? Please provide any information.

On a separate sheet of paper, please have Coach Robert Butler respond to the following:

1. His knowledge of, relationship with, and connection with Bart King, John Patton, and/or Kevin Armstrong.

2. Has he had any contact with (please give details) or had any discussions (please give details) with either the students listed below or any other person concerning them:

a) Glean Eddy
b) Jesse Kellogg
c) Jacques Currey
d) Jermonde Davis
e) George King
f) Jarvis Currey
g) Dewayne Wells
h) Altony Williams

If you have any questions regarding any of the above, please feel free to contact me.

RC

wmb

Received
June 13, 1997
T.S.S.A.

[BA LOGO]
BRENTWOOD ACADEMY

219 Granny White Pike
Brentwood, Tennessee 37027
615-373-0611 FAX: 615-377-3709
E Mail: Office@brentwoodacademy.com

William B. Brown, Jr.
Headmaster

To: Ronnie Carter, Executive Director
From: Bill Brown, Headmaster

1. Give us policy of admitting any coaches and any athletes (middle school, junior pro, etc.) to any contests? Has this been done in the last three years in any sport for anyone other than Kevin Armstrong?

1. Any coach, at any level, has been admitted free upon request to the Athletic Director for the last 26 years. (not including playoff or tournament games) This policy also includes any school personnel (teachers; principals). Coach Flatt has not called any coach and offered free admission during the last three years. Any student not attending BA (athlete or not) above the sixth grade is not admitted free to football or basketball games.

2. In regard to spring practice, are students from schools other than Brentwood Academy permitted to attend spring practice in boys' basketball or girls' basketball? Please give the following information:
Number attending spring practice not in your building. Please give names and schools.

2. a). Brentwood Academy does not have Spring Practice in girls' & boys' basketball. In June all new students are given the opportunity to practice.

b). 1996 - Justin Uselton - Harpeth Jr. High

1995 - Do not recall any

Since we received complaints last year about some students not being aware of spring practice, we decided to send a letter to ALL new male 9th-12th grade students informing them of this event. This is the reason there were so many this year. Typically, we have 8 to 12 new 9th-12th grade students participating in high school football at the beginning of fall practice.

3. Since the students cannot drive, how do they get to Brentwood Academy and how do they get home?

3. We in no way address this issue. We state that if it is a hardship or if *they* are involved in anything at their school, they should not attend.

4. Some students are attending spring practice while enrolled in another TSSAA member school while other students are not permitted to attend practices. How do you make this determination? Can anyone (accepted or not accepted etc.) go through spring practice?

4. Coach Flatt called Ronnie Carter the last three years about new students participating in Spring Practice and to make certain the policy had not changed. Ronnie gave him permission as long as they were accepted in admission and we had the written indication from them that they planned to attend Brentwood Academy. Ronnie also gave him permission for these students to lift weights at Brentwood Academy. This year there was an unusually high number of new students participating in Spring Practice. This is the first time that we have sent a letter to all new upper school boys. We sent this letter because in the past if a new parent called concerning Spring Practice, we gave them the information, and other new students felt left out. In our efforts to include all new students and not to run the risk of being accused of selecting only certain

students, we implemented this procedure. Coach Flatt followed the guidelines given to him by Ronnie Carter exactly. He certainly realizes that such a visible event would be under heavy scrutiny.

5. The information received from Coach Flatt indicates Jacques Curry and Jermonde Davis have gone through the admission process *and have been accepted. Please indicate how the $300 fee was paid in each case.*

5. The $300 for Jacques Curry has not been paid because he is a candidate for financial aid. The Spring Practice letter was not sent to Jacques Curry because his documentation that he would be attending Brentwood Academy had not been received at that time. The $300 for Jermonde Davis was paid on March 5, 1997 by a money order.

6. Please inform us of the following: Since Mr. Patton is a Brentwood Academy coach, what students (names and grades) are on his AAU team? Please give practice dates and games that have been played by his AAU team.

6. Mr. Patton's son, Mikie, was an eighth grader two years ago when our head coach, Marcus Bodie, asked him to assist him free of charge. Last year Marcus left to coach at Franklin High School. Mr. Patton asked to be considered as our paid eighth grade coach. After discussion with Coach Holman, I decided to hire him. He asked Mickey Jacobs to assist him since Mickey's son, Mikael, was on the team. I had a meeting with Mr. Patton in my office to review TSSAA rules just like I do any coach. See attached information from Mr. Patton.

7. Coach Flatt has indicated meeting students at AAU practice. Please give number of times any other coaches from Brentwood Academy have been present at AAU practices. Please list individually.

7. Coach Flatt is responsible for the use of athletic facilities and periodically checks on the condition of the

facilities. We provide our facilities to many AAU and other various leagues. Coach Flatt's daughter plays on a team that practices and plays in our gym. Perhaps 10 times he has been present at AAU practices. Robert Butler coaches 3 teams, 2 AAU teams and a church league team. Brad Perry coaches one AAU team. He is unaware of other coaches being present.

8. What is Brentwood Academy's policy in regard to use of facilities? Who else uses facilities? How many years have AAU teams used facilities? Please give teams, coaches and age groups for last three years. Is there a fee charged? Who provides insurance? If not Brentwood Academy, do you have a copy of the certificate of insurance provided by this group or other groups on file?

8. a). Buddy Alexander, Assistant to the Athletic Director, takes calls concerning athletic facility use. Usually, if there is a connection between a coach or player and our school or someone in the community, we try to accommodate the request. We have many groups who use the track, softball, baseball and basketball facilities year-round. There is no fee charged unless the use generates revenues. Brentwood Academy maintains adequate liability insurance to cover the exposure created by these uses. We ask the groups to sign a standard waiver, release, and covenant not to sue and provide a certificate of insurance.

b). <u>1996-97 Gymnasium Use</u>

1. Brentwood YMCA Basketball League Coach Jeff Gillis, 12 & under	Saturdays, Dec.-Feb.
2. Dr. Greg Sikes Junior Pro	1 time/wk, Jan-Feb
3. Carter Brown Junior Pro	1 time/wk, Jan-Feb
4. Bart King, Benny Proffitt AAU, Boys 14 & under	5 practices between last summer and fall

5.	Bart King Junior Pro, 12 yr old boy	practice 2 times/wk through the fall
6.	John Patton AAU, Boys 15 & under	practice 2 times/wk March-May
7.	Brad Perry AAU, Boys 13 & under	practice 2 times/wk March-May
8.	Robert Butler AAU Girls 10 & under AAU Boys 12 & under	practice 2 times/wk April-June
9.	Scott Reall Junior Pro All-star, Boys 12 & under	4 practices in April
10.	Bart King, Robert Butler 6th grade girls, First Pres. League	1 practice/week Nov.-Dec.

Football Field

1.	Carter Brown 5/6th grade team, Southwest YMCA	3-4 practices/wk Sept.-Oct.

[Attachment]

To: Ronnie Carter
From: Robert Butler

1. His knowledge of, relationship with, and connection with Bart King, John Patton, and/or Kevin Armstrong.

1. Bart King: I first knew of him through phone conversations we had when he was chairman of the Brentwood Rotary Girls Basketball Tournament.

John Patton: A family acquaintance for about 5 years and know him as a fellow coach at Brentwood Academy.

Kevin Armstrong: never heard of him.

2. Has he had any contact with (please give details) or had any discussions (please give details) with either the students listed below or any other person concerning them:

2. *a).Glean Eddy*
met at Spring Practice

b).Jesse Kellogg
met at Spring Practice

c).Jacques Curry
met him when he interviewed at B.A. Tried out for travel team at B.A. and said hello.

d).Jermonde Davis
no contact

e).George King
never heard of him

f). Jarvis Currey

g).Dewayne Wells
never heard of him

h).Altony Williams
never heard of him

* * *

TENNESSEE SECONDARY SCHOOL
ATHLETIC ASSOCIATION

[TSSAA LOGO]

CONSTITUTION

TENNESSEE SECONDARY SCHOOL ATHLETIC ASSOCIATION

ARTICLE I

Name and Purpose

Section 1. The name of the corporation shall be the Tennessee Secondary School Athletic Association, and hereafter shall be referred to as TSSAA.

Section 2. The purposes of the corporation shall be as stated in the Charter of Incorporation and, in addition, to stimulate and regulate the athletic relations of the secondary schools in Tennessee.

Recognizing that the primary objective of all secondary schools is to educate youth, the TSSAA aims to co-ordinate the athletic and scholastic programs. The athletic field and the gymnasium are classrooms in which teaching is foremost in the development of character, integrity, sportsmanship, and teamwork. Although the athletic program is associated primarily with physical education and the scholastic program with mental education, one complements the other.

* * *

ARTICLE III

Board of Control

Section 1. Administration: The administrative authority of the TSSAA shall be vested in a Board of Control composed of nine members. This Board of Control shall be composed of one representative from each Athletic District, who shall be elected to serve for a period of three years. The terms of office of three of the members of the Board of Control, one from each Grand Division of the state, shall expire each year.

Section 2. Elections: The election of members of the Board of Control shall take place in an annual meeting of the schools of each Grand Division. Nominations shall come from within the district of the member whose term is expiring, and only the members of that Athletic District may vote for their representative on the Board of Control. Each member school of the Athletic District that is represented at the meeting by the principal, or other faculty member, shall be entitled to one vote. In the event of a tie vote, the tie will be broken by a vote of the schools in that Grand Division of the state attending the regional meeting.

The term of office for members of the Board of Control shall begin at the March meeting following their election.

All members of the Board of Control must be principals or superintendents. (An assistant principal who devotes full time to administrative duties shall be eligible to serve.) County superintendents shall not be eligible for membership, nor shall city superintendents of systems of more than one four-year high school or senior high school be eligible for membership. A principal or superintendent cannot serve as a member of the Board of Control and as a member of the Legislative Council at the same time.

Section 3. Officers: The officers of the Board of Control shall be a president and a vice president. These officers shall be elected annually by the members of the Board of Control and each shall perform the duties usually required of the office. The President and Vice-President of the Board of Control shall serve as President and Vice-President of the TSSAA. The President of the Board of Control shall also attend all meetings of the Legislative Council. The Executive Director shall act as Secretary of the Board of Control.

Section 4. Vacancies: Withdrawal from the teaching profession, suspension or lapse of membership of the school represented, or removal from the Athletic District represented shall immediately terminate membership on the Board of Control, and the vacancy shall be filled as provided below.

Vacancies on the Board of Control shall be filled by the members of the Board of Control representing the Grand Division wherein the vacancy occurs. Such members shall serve until the next annual meeting of the member schools of the Grand Division, at which time vacancies shall be filled by regular election.

Section 5. Power and Duties of Board of Control: The Board of Control shall:

(a) Have general control over all athletic contests in which member schools participate.

(b) Elect an Executive Director and delegate to him the authority to interpret and to enforce the Constitution and Bylaws of the TSSAA.

(c) Provide office facilities and employees for properly

conducting the business of the Association. (The Tennessee Secondary School Athletic Association is an Equal Opportunity Employer.)

(d) Determine and authorize all necessary expenditures of money in the conduct of the affairs of the Association.

(e) Determine methods of, and qualifications for, registration of officials; revoke registration of any official for just cause.

(f) Act as a final court of appeals.

(g) Have authority to rule on any cause not covered by the Constitution and Bylaws, until the Legislative Council adopts a rule covering the situation.

Section 6. Meetings: The Board of Control shall meet in August, November, January, March and June. Other meetings may be called by the President of the Board of Control.

Section 7. Quorum: A majority of the members of the Board of Control shall constitute a quorum for the transaction of business.

* * *

Article IV

Legislative Council

Section 1. Legislative Body: The legislative body of the TSSAA shall be a Legislative Council composed of nine members. Members shall consist of one representative from each Athletic District elected to serve for a period of three years. The terms of office of three of the members of the

Legislative Council, one from each Grand Division of the state, shall expire each year.

Section 2. Election: The election of members of the Legislative Council shall take place in an annual meeting of the schools of each Grand Division.

Nominations shall come from within the district of the member whose term is expiring, and only the members of that Athletic District may vote for their representative on the Legislative Council. Each member school of the Athletic District that is represented at the meeting by the principal, or other faculty member, shall be entitled to one vote. In the event of a tie vote the tie will be broken by a vote of the schools in that Grand Division of the state attending the regional meetings.

The term of office for members of the Legislative Council shall begin at the March meeting following their election.

All members of the Legislative Council must be principals or superintendents. (An assistant principal who devotes full time to administrative duties shall be eligible to serve.) County superintendents shall not be eligible for membership nor shall city superintendents of systems of more than one four-year high school or senior high school be eligible for membership. A principal or superintendent cannot serve as a member of the Legislative Council and as a member of the Board of Control at the same time.

Section 3. Officers: The officers of the Legislative Council shall be a president and a vice president. These officers shall be elected annually by the members of the Legislative Council and each shall perform the duties usually required of the office. The President of the Legislative Council shall also attend all meetings of the

Board of Control. The Executive Director shall act as Secretary of the Legislative Council.

Section 4. Vacancies: Withdrawal from the teaching profession, suspension or lapse of membership of the school represented, or removal from the Athletic District represented shall immediately terminate membership on the Legislative Council, and the vacancy shall be filled as provided below.

Vacancies on the Legislative Council shall be filled by the members of the Legislative Council representing the Grand Division wherein the vacancy occurs. Such members shall serve until the next annual meeting of the member schools of the Grand Division, at which time vacancies shall be filled by regular election.

Section 5. Duties: The Legislative Council shall make necessary amendments to the Constitution and Bylaws and act upon suggestions submitted by 25 members of the Association.

Section 6. Meetings: The Legislative Council shall meet in December during the week of the state football championships and in March during the week of the state basketball tournaments. Other meetings may be called by the President of the Legislative Council.

Section 7. Quorum: A majority of the members of the Legislative Council shall constitute a quorum for the transaction of business.

* * *

Article V

Executive Director

Section 1. The Executive Director shall be elected for a term of three years by the Board of Control.

Section 2. Under the direction of the Board of Control, the Executive Director shall receive, hold, expand and account for all funds of the Association.

Section 3. He shall maintain the records and property of the Association.

Section 4. He shall initiate investigations, conduct hearings, collect information, render decisions and fix penalties based on the evidence, and in accordance with the rules and regulations of the TSSAA. Such decisions shall be subject to review by the Board of Control on appeal by the principal of the member school involved.

Section 5. He shall attend all meetings and serve as Secretary of the Board of Control and of the Legislative Council.

Section 6. He shall be an ex-officio member of all committees of the Board of Control and of the Legislative Council.

Section 7. He shall administer the rules and regulations governing the certification of officials as directed by the Board of Control.

* * *

Article VI

Hearings

Section 1. Any school charged with violating TSSAA regulations shall be notified of such charges by the Executive Director. If a hearing is desired by the school involved, the Executive Director must be notified immediately in writing. Provisions will then be made for such hearing, and the school so notified.

Section 2. A member school shall not be suspended from membership without first being given the opportunity to present its case at a hearing. Hearings shall be conducted by the Executive Director in the presence of two or more members of the TSSAA Board of Control who represent the Grand Division of the state in which the school is located, and who shall act in an advisory capacity. After testimony has been heard, the Executive Director shall meet in executive session with the members of the Board of Control who are present at the hearing. After discussing with the Board members the evidence and possible penalties, the Executive Director shall decide what penalty, if any, is to be placed against the school.

Section 3. Any decision of the Executive Director may be appealed to the Board of Control. If the decision of the Executive Director is sustained, the school making the appeal shall defray the expenses for the meeting of the Board of Control in case a special meeting of the Board is called to consider the appeal.

Section 4. No member of the Board of Control shall serve on the Board while a case involving the school which he represents is being heard.

* * *

CONSTITUTION FAQ

1.

Q. How are members of the Board of Control and Legislative Council selected?

A. Members of the Board of Control and of the Legislative Council are selected at the annual regional meetings in the fall. Each school represented has one vote. The East Tennessee meeting is held in Knoxville, Middle Tennessee in Nashville, and West Tennessee in Jackson.

2.

Q. How may a school charged with violating TSSAA regulations present its case?

A. The principal of the school may request the Executive Director to call a hearing in regard to the charges. Such a hearing is held before the Executive Director and two or more Board of Control members representing the Grand Division of the state in which the school is located.

3.

Q. May a decision made by the Executive Director be appealed to the Board of Control?

A. Yes.

4.

Q. What procedure is followed by a school that wishes to appeal to the Board of Control a decision of the Executive Director?

A. The school principal should notify the Executive Director in writing that the principal wants the Board of Control to review the case. If it is satisfactory to hold the review of the case at the next regular meeting of the Board of Control, it will be listed on the agenda. If the case is of such nature that the school wants immediate action, the principal should so indicate. The Executive Director will then communicate with the president of the Board who will call a special session to consider the case. When such a special session of the Board is called, the school requesting the special session shall pay all expenses of the meeting in the event the Board of Control sustains the decisions of the Executive Director.

5.

Q. Does the Executive Director have a vote on matters that are presented to the Board of Control?

A. No. The Executive Director is not a member of the Board of Control and therefore can have no vote on matters being considered by it.

6.

Q. May a member of the Board vote on a matter involving the school which he represents?

A. No. A member of the Board of Control cannot sit in on a case involving his or her own school.

7.

Q. How may a member school submit a proposal to amend the Constitution or to change the Bylaws?

A. By putting the suggested change in writing and filing it with the Executive Director no later than October 15 preceding the December meeting of the Legislative Council.

* * *

TENNESSEE SECONDARY SCHOOL
ATHLETIC ASSOCIATION

[TSSAA LOGO]

BYLAWS

ARTICLE I

- Membership
- Financial Statement
- Suspension
- Sponsored Sports
- Cooperative Programs

Membership

Section 1. Secondary schools (also junior high schools) in the state, which are approved by the State Department of Education, State Department of Education approved agencies (Schools must be in category 1, 2, or 3.) and/or the Southern Association of Colleges and Schools, both private and public, desiring membership in TSSAA may make application to the Board of Control. Applications for membership shall be approved or rejected by the Board of Control.

Member schools that withdraw from the TSSAA membership must be an affiliate member for one year upon application to renew membership.

Section 2. There shall be two divisions for athletic competition — the Senior High Division and the Junior High Division. For tournament competition in the Senior High Division, there shall be two categories. Division I shall be

schools whose student-athletes do not receive need-based financial aid. Division II shall be those schools whose student-athletes may be the recipients of need-based financial aid.

Schools which include grades 7-12, 8-12, 9-12 and 10-12 may compete in the Senior High Division. Schools in transition, if they desire, may compete in the Senior High Division after the 10th grade has been added.

Schools which include grades 7, 8 and 9, grades 8 and 9, or grade 9 may compete in the Junior High Division. (It will, therefore, be possible for some schools to compete in both the Senior and the Junior High Divisions, while other schools will be able to compete in only one of the divisions. Even though the school may participate in both divisions, it will hold only one membership in TSSAA.)

Schools with grades 7, 8, 9, grades 8 and 9, or grades 9 may compete in Senior High Division against Senior High Division "B" teams in regular-season contests and "B"-team invitational tournaments provided they use eighth- and ninth-grade students only.

Section 3. The annual dues for a senior high school in Class A shall be $150.00, in Class AA $200.00, in Class AAA $250.00 and for a junior high school shall be $100.00. (All TSSAA schools will pay membership dues based on where their enrollment would place them in the Division I, three-classification plan.). The TSSAA Legislative Council may not increase membership dues unless the increase is approved by a vote of TSSAA member schools.
Membership dues shall be paid in advance and shall be for the calendar year.

Section 4. Membership expires at midnight on December 31 of each year. Schools failing to renew membership before January 1 shall be charged a penalty of $25.00. The Executive Director shall notify by registered letter the principal of any school that has not renewed

membership by January 1 and advise the principal that unless the membership fee and the penalty are filed immediately the school will be dropped from the list of member schools.

Financial Statement

Section 5. The fiscal year of the Association shall be from July 1 to June 30. At the close of the fiscal year, the Executive Director shall publish a financial statement. All surplus funds shall be used as directed by the Board of Control.

Suspension

Section 6. The Executive Director and/or the Board of Control shall have power to suspend, to fine, or otherwise penalize any member school for the violation of any of the rules of the Association or for other just cause. The period of suspension or other penalty shall be left to the discretion of the Board of Control where the penalty is not fixed.

Section 7. Any school under suspension, if it has restricted its athletic program to intramural athletics for the period of suspension, may be reinstated by the Board of Control upon application made in writing, 20 days in advance of the time it desires to be reinstated, to the Executive Director by the principal of the school and by the Board of Education under which the school operates. The Executive Director shall present the application of the suspended school to the Board of Control for its consideration. The principal and the board of education shall agree in writing that the school will abide by all rules of the Association in the future. The principal and each member of the board of education shall sign the statement.

Section 8. If a school with one or more two-year

contracts has its athletic program in any sport suspended for violation of TSSAA regulations—and the first game of the two-year contract has been played at the offending school—such school shall be required to complete the contract, or contracts, when it resumes its athletic program if the school, or schools, affected desire.

Section 9. Suspension of a member school shall free all existing contracts between that school and other member schools.

Section 10. An attempt by a member school to permit a player to participate who has been declared ineligible by TSSAA shall free all existing contracts between that school and other member schools.

Section 11. Contracts made and entered into by member schools may be cancelled by mutual agreement or by authority of the Board of Control. All contracts between two schools shall be signed by the principals contracting.

Sponsored Sports

Section 12. TSSAA shall sponsor the following sports: baseball, girls softball, basketball, cross country, football, golf, tennis, track and field, girls volleyball, girls soccer, soccer and wrestling.

Cooperative Programs

Section 13. Two schools may petition TSSAA for permission to have a cooperative program in team sports (football, girls volleyball, basketball, baseball, girls softball, girls soccer and soccer) if one of the schools does not have that program or has not had that program for the last five years. Only schools with the same grade configuration may combine to form a team and schools may co-op with only one

other school (a maximum of two schools may combine to form a team). The Executive Director of TSSAA may approve such co-op programs subject to approval by principal of schools involved, school board of the schools involved, and the TSSAA Board of Control. When a co-op program has been formed between schools it must be re-evaluated after one year and is subject to approval by the Executive Director.

A student attending the ninth grade at a junior high school which terminates at the ninth grade may participate for the senior high school for which it is the feeder school, provided: (a) both schools are under the jurisdiction of the same board of education; (b) the student resides in the zone of that high school; and (c) the student does not have the opportunity to participate in that sport at the junior high school because the junior high school does not offer that sport.

* * *

ARTICLE II

ELIGIBILITY RULES

Academic Rules
High School Graduate
Eight Semester Rule
Years of Participation
Grade and Season
Participation Age Limit
B Teams and Six-Quarter Rule
Independent Game Participation
All-Star Games
Transfer Rules
Foreign Exchange Programs
Residence Rule
Practice Rule
Date of Enrollment
Recruiting Rule
Understanding The "Recruiting Rule"
Amateur Rule
Award Rule
College Attendance
Student Employment
Tuition and Financial Aid
Specialized Camps
Setting Aside Eligibility Rules
Special Cases Involving Hardship
Physical Examination and Parental Consent
Forfeitures

The member high schools of the Tennessee Secondary School Athletic Association have adopted, through their elected representatives, an essential inter-related group of minimum eligibility requirements which establish the threshold for participation for all students within the interscholastic program and which work together to define and preserve the fundamental nature of the program.

Academic Rules

Section 1. To be eligible to participate in athletic contests during any semester:

(a) The student shall have made a passing grade the preceding semester in at least five full unit subjects or their

equivalency, provided the student is in class five days a week. If a school or school system averages the first and second semester to determine credit for the entire year in a subject, the yearly grade may be used to determine eligibility for the fall semester. Preceding semester is the last semester school was in session. If a student is forced to withdraw from school, or is prevented from enrolling in school, due to illness or accident to the student, the principal may submit to the Executive Director full details concerning the illness or accident and request a ruling in regard to the student's eligibility, provided the student was eligible at the time the illness or accident forced the student to withdraw or prevent the student from enrolling in school. If ruled eligible, such a student shall be charged with a semester of attendance for athletic purposes for the semester of non-attendance or withdrawal.

A student who returns to a member school after attendance at a school of correction or alternative school may be eligible for athletic participation provided the school of correction or alternative school is accredited by the Tennessee State Department of Education and provided the student returns to the school attended before entering the school of correction.

Any student assigned by the juvenile court to Tennessee Preparatory School shall be eligible for athletic competition upon entering. After one full semester, the student must meet all eligibility standards to continue his/her eligibility.

(b) Students shall be regularly enrolled, in regular attendance, and carrying at least five full courses. A student shall be considered as regularly enrolled after the student has attended for three days, has engaged in three or more days of football, girls volleyball, cross country, golf or girls soccer practice during the period on or after August 1, or has participated in an athletic contest in any sport.

Section 2. For athletic purposes the scholastic record

filed in the office of the principal or superintendent at the end of a semester shall be final. Credits earned in a summer school accredited by the State Department of Education shall be recognized for eligibility purposes provided the student was enrolled during the spring semester immediately preceding the summer session and attended at least 40 days of that spring semester.

Section 3. A student who drops out of school before the end of the semester shall be ineligible to participate in secondary school athletics until the student has been in school a semester and has passed in at least five full unit subjects. (To become eligible under this regulation, a student must attend school for at least 40 days of the semester, but in no case shall the eligibility become effective until the beginning of the succeeding semester.)

1.

Q. Are subjects such as physical education and ROTC counted in determining the eligibility of a player?

A. Yes. Provided these subjects carry one full credit for the year or one-half credit for the semester and meet one hour each day for five days a week or the equivalent.

2.

Q. Is a student who drops out of school for one or more semesters eligible to participate when that student returns, provided he or she completes the last semester he or she was in school and passed the required number of subjects?

A. No. A student must attend school one semester before he or she becomes eligible to participate.

3.

Q. Must a student have earned five units of credit the previous year in order to be eligible?

A. No. Eligibility is based on the work being done each semester. A student must earn five units each semester. (See also question No. 10)

4.

Q. The school passing mark is 70. At the close of the first semester an athlete has a grade of 80. At the close of the second semester the grade in the same subject is 65. At the end of the school year the two grades are averaged and the student is allowed one unit of credit. May this subject be used in meeting the scholastic requirements?

A. Yes.

5.

Q. A student is forced to withdraw from school, or is prevented from enrolling in school, due to illness or accident to the student. After being out of school for a semester, or a part of a semester, the student recovers from and enters school at the beginning of the next semester. Is it possible for such a student to be eligible to participate in athletics?

A. Such a case may be considered as a special case by the Executive Director provided the principal submits details in regard to the absence of the student. If the student is ruled eligible, that student shall be charged with a semester of attendance for athletic purposes, even though he or she attended less than forty days of the semester, or did not even enroll.

6.

Q. A student has an incomplete or is conditioned at

the end of the first semester. Will the student be eligible for participation in the second semester as soon as the conditions are removed?

A. A student who receives an incomplete in a subject which causes him or her not to meet minimum scholastic requirements is ineligible until the course is satisfactorily completed. His or her eligibility is restored at that point.

7.

Q. What is meant by the term "full unit subject" as used in Article II, Section 1 (a)?

A. A subject that carries one-half unit credit for a semester or one credit for the school year.

8.

Q. At the close of the spring semester a student fails two or more subjects. May such student become eligible for athletic participation the following fall by attending summer school and making good the work in which he has failed?

A. Yes, provided the summer school is recognized by the State Department of Education.

9.

Q. A student was not in school during the spring semester. May that student attend summer school and become eligible for athletic participation the following fall by passing five subjects in summer school?

A. No. A student must have been in school the preceding semester or the last semester school was in session in order to be eligible. A summer session is counted as a continuation of the spring semester.

10.

Q. A student who passed only three subjects at the close of the spring semester enrolls in summer school and earns two units or credits in English by taking both the first and second semesters' work. Since that student will have passed two subjects will he or she be eligible for athletic participation in the fall?

A. Yes. A student shall be considered as passing five full unit subjects.

11.

Q. A student passes four subjects in the spring and takes a correspondence course during the summer and passes the correspondence course. Is this student eligible for athletic participation in the fall?

A. No. TSSAA does not recognize correspondence courses.

12.

Q. A student repeats a course for which the student has already received a passing grade or is taking a course for which the student is not receiving credit toward graduation. Will this subject count as one of the five full unit subjects passed the preceding semester for athletic eligibility?

A. No. A student may not repeat a course that he or she has already passed for athletic eligibility purposes nor may a student count a subject for which he or she is not receiving credit towards graduation for athletic eligibility purposes.

13.

Q. A student enrolls in a school and attends only two days. Is this considered enrollment?

A. No. Article II, Section 1 (b) of the Bylaws states, "A student shall be considered as regularly enrolled after that student has attended school for three days, has engaged in three or more days of football, volleyball, cross country, golf, or girls' soccer practice during the period, or has participated in an athletic contest."

14.

Q. A student attends school for twenty-five days and then drops out. During the twenty-five days of attendance: (a) he or she participated in one or more athletic contests; (b) he or she did not participate in any athletic contest?

A. (a) Student will be charged with a semester since he or she participated in an athletic contest.

(b) Student will not be charged with a semester since that student did not attend forty or more days. (See Article II, Section 5.)

15.

Q. Is there any regulation about the time a student must enroll in order to be eligible during a given semester?

A. Yes. A student must enroll on or before the twentieth day of a semester.

16.

Q. A student does not attend school during the fall semester. Thirty days before the close of the spring semester, the student enrolls and passes in five full unit courses. Will that student be eligible for athletic participation the following fall?

A. No. In order to meet the requirements of having been in school the preceding semester, a student must attend at least forty days. (See Article II, Section 3.)

17.

Q. A student who was ineligible the first semester becomes eligible the second semester. May he or she participate the weekend that marks the close of the first semester?

A. No. A student is not eligible until the opening day of the second semester.

18.

Q. A student who is eligible for the first semester becomes ineligible for the second semester. The first semester ends just before the Christmas holidays begin. Is such a student eligible to participate until the first day of the second semester?

A. Yes, the student would be eligible to represent his or her school during the holidays because he or she does not become ineligible until the fast day of the second semester.

High School Graduate

Section 4. No student shall be eligible to participate in athletics after he or she has graduated from a secondary school. (A student who takes an accelerated course shall not lose his or her eligibility even though that student earns enough units to graduate provided he or she does not participate in a graduating exercise or accept a high school diploma, and provided the student has not attended a secondary school for eight semesters after enrolling in the ninth grade.)

Eight-Semester Rule

Section 5. A student shall be ineligible to compete in any sport if he or she attended a secondary school, or schools, for eight semesters of four and one-half months each. Attendance of 40 school days of any semester shall be regarded as a "semester" under this rule. If a student participates in athletics during a period of attendance of any number of days less than 40, he or she shall be charged with a semester of attendance. Attendance in junior high school shall be taken into consideration in determining the number of semesters a student has been in school.

A student who registers for two or more ninth grade subjects after having completed one school year in the eighth grade shall be classified as a high school student for athletic purposes.

The seventh and eighth semesters shall be consecutive.

1.

Q. What is the maximum number of semesters a student can attend school and still be eligible for athletic participation in the Senior High Division?

A. After a student has attended school EIGHT SEMESTERS he or she is ineligible for further athletic participation.

2.

Q. When does the EIGHT SEMESTER count begin?

A. As soon as a student enrolls in the ninth grade. A student is considered as enrolled in the ninth grade when he or she schedules two or more ninth grade subjects after having completed one school year in the eighth grade.

3.

Q. How does the semester rule apply to teams playing in the Junior High Division?

A. A student is limited to four semesters of eligibility after entering the 8th grade. The semester count starts when the student enrolls in the 8th grade.

Years of Participation

Section 6. A student who has participated in one first-team game, or B-team game, for any length of time shall be regarded as having played one year. A student shall not play more than four years in any sport while he or she is enrolled in high school.

Grade and Season Participation

Section 7. In a school organized on the six-six plan, the eight-four plan, or the one-twelve plan, eighth-grade students may compete as members of the high school team. Any student repeating the eighth grade shall not be eligible for high school participation during the year that the student is repeating the eighth grade.

Any student repeating the seventh grade after having passed the seventh grade or repeating the eighth grade after passing the eighth grade shall not be eligible to participate in athletics during their ninth-grade year.

Such participation shall not count as one of the four seasons a student is allowed to participate after enrolling in the ninth grade, but such student will be considered as having an athletic record in so far as the transfer rule is concerned.

Students in a grammar school or junior high school which are administered under a different principal than that of the high school shall be ineligible to compete as members of the high school team except as members of an approved cooperative program as described in Article I, Section 13.

A student shall not participate in more than one

complete season in a sport in a school year.

1.

Q. A student repeats the 7th grade after having passed the 7th grade. What is the status of the student's eligibility?

A. If the student is participating with a TSSAA member school in TSSAA sanctioned sport or with a school in the TMSAA, the student will be ineligible until they have reached their next highest grade (8th grade). In addition, the student will be ineligible their 9th grade year since they have repeated the 7th grade or 8th grade after having passed the 7th or 8th grade.

2.

Q. A student fails the 8th grade and repeats the 8th grade. Would the student be ineligible their 9th grade year?

A. No, provided they meet all other eligibility requirements. Ineligibility in this situation during a student's 9th grade year applies only to students who repeat the 7th or 8th grade after having passed the 7th or 8th grade.

3.

Q. If an eighth grade student participates as a member of a senior high school team, is such participation charged against the student?

A. No. Such a student will still be entitled to four years of high school participation.

4.

Q. May a seventh grade student participate as a member of a senior high team?

A. No, a student must be enrolled in the 8th grade or higher grade before he or she can participate in the senior division.

Age Limit

Section 8. No student shall be eligible to participate in any athletic contest during any school year if he or she becomes 19 years of age on or before September 1. The age rule may be waived for the Tennessee School for the Blind when this school is competing with other schools for the blind provided such schools are permitted by their state associations to waive the age rule in competing with other schools for the blind. (Effective with the 1998-99 school year no student shall be eligible to participate in any athletic contest during any school year if he or she becomes 19 years of age on or before August 1.)

1.

Q. Is a student whose nineteenth birthday falls on September 1 ineligible for participation in the Senior High Division?

A. Yes, any student who becomes nineteen years of age on or **before** September 1 of any school year is ineligible. Beginning in 1998-99, the date will be changed to August 1 so that any student who becomes nineteen years of age on or before August 1 of a school year will be ineligible.

2.

Q. If a student becomes nineteen years of age on September 2, or any date thereafter, is that student

eligible to participate for the remainder of the school year?

A. Yes.

B Teams and Six-Quarter Rule

Section 9. The membership of a B team shall be composed of all varsity substitutes and any other players that are certified to TSSAA.

All eligibility rules will apply at the varsity level only in high and junior high school. At the junior varsity or B-team level, only the age, semester, academic and repeating rules will apply. Students in violation of any of these four rules will be ineligible to participate at any level. Students that are ineligible as a result of any other rules may participate at the B-team level in either junior high or varsity athletics.

A player shall not participate in more than six quarters of play in one day during regular-season contests. (A player who enters a game for any length of time during a quarter shall be charged with a quarter's participation.)

B teams shall comply with all other TSSAA regulations.

Independent-Game Participation

Section 10. After a student's name is listed on the school eligibility report, the student shall not participate in an independent game until the season has closed or his or her name has been removed from the eligibility report at the request of the school principal.

Any game in which players not registered with TSSAA participate – regardless of whether admission is charged – is considered **as** an independent game. Violation of this rule will render the student ineligible for 25% of the number of contests allowed in that sport by the sports calendar or for the remainder of the season in that sport,

whichever number is the least. Violation of this rule a second time in the same sport in the same season will render the student ineligible in that sport for the remainder of the season.

A student's name may be removed from the school's eligibility list upon written request of the principal. After such a request has been filed with the state office, a student may then participate as an independent without penalty. If a principal requests the state office to remove a student's name from the school's eligibility list, such student may not again be certified during the season of that sport.

1.

Q. Team A is eliminated in the district basketball tournament. **May players on Team A participate in an independent game or tournament without endangering their eligibility?**

A. The basketball season ends for any member school when the **school** is eliminated from tournament play. Students may participate as members of independent teams in any sport after the season for that sport has closed without affecting their eligibility, provided the amateur rule is not violated.

2.

Q. A golfer or tennis player wishes to participate in a club tournament during the golf or tennis season. Is this a violation of the Independent rule?

A. No, provided the golfer or tennis player participates as an individual and not as a member or representative of his or her school. The independent rule does not apply to golf and tennis.

3.

Q. May a player participate in a scrimmage, practice game or game with an independent team after being registered with TSSAA in that sport?

A. No. The student shall be ineligible immediately in the sport in which the violation occurs.

4.

Q. Is it a violation for a registered athlete in baseball or softball to practice with an independent team?

A. No, provided he or she participates in only practice situations only (batting practice, infield practice, etc.), provided no game situations are involved.

5.

Q. Is it a violation for a registered athlete in track or cross country to participate in a road race?

A. No, provided the race is longer than 3200 meters during track season or longer than three-miles during cross country season.

6.

A. The student will be ineligible for the next seven contests (25% of the number of games allowed under the sports calendar) or the remainder of the season, whichever is the least.

7.

Q. A student is registered on the girls' softball team with school A. The student then participates in an independent girls' softball game. She then returns to

school A's softball team where she plays three games. The coach of school A determines that the student has played in an independent game and reports the violation to the state office. What is the penalty?

A. School A has played an ineligible player for three games. The three games will be forfeited and disciplinary action will be taken. The student is ineligible for six games. (If a student participates in three contests as an ineligible player, the three contests will be forfeited, disciplinary action will be taken against the school, and the student will be ineligible to participate in the next six contests or for the remainder of the season, whichever is the least.)

All-Star Games

Section 11. (a) No student shall be permitted to participate in an all-star game unless it is sanctioned by the TSSAA and unless he/she has completed high school eligibility in that sport; (b) no individual player is allowed to participate in more than two sanctioned all-star contests during the school year; and (c) any student who fails to comply with the preceding requirements loses athletic eligibility for a period of time to be determined by the Board of Control. This rule reflects the present NCAA rule involving all-star games and is designed to parallel those regulations.

An all-star game is defined as any contest (where admission is charged either directly or indirectly) in which one or both teams is composed of players selected from two or more regularly constituted teams. This regulation does not apply to summer baseball and girls softball.

Any all-star game beginning after March 1, 1997, and involving TSSAA athletes must be sanctioned by the TSSAA. A filing fee of $250.00 is required for the game to

be considered for sanctioning. If the game is approved then an additional approval fee of $750.00 is required. If the request is denied, then all fees shall be refunded. This fee is required for games involving groups not affiliated with the TSSAA and only upon initial application.

No member school shall permit use of its equipment, facilities, or of its employees, directly or indirectly, in the management, coaching, officiating, supervision, or promotion of player selection of any unsanctioned all-star team or contest during the school year.

1.

Q. A civic club plans to hold an all-star basketball game. Only seniors who do not participate in spring sports will participate. Would it be a violation for a coach of a member school to coach one of the teams; for the coach and principal to permit the players to use school equipment; for a registered TSSAA official to officiate the game?

A. Yes, if a game is played during the school year officials and game officials shall have no connection whatsoever with such a contest.

2.

Q. What is the difference between an independent team and an all-star team?

A. An independent team is a team that is organized to play a schedule. An all-star team is a team composed of players from different schools who are usually assembled as a team for playing one particular game.

Transfer Rules

"Transfer student"—a student who has transferred schools due to a bona fide change of residence by his or her parents or guardians or a student who has transferred schools and has not completed all the grades of his or her former school (school from which student is transferring).

"Transfer student with an athletic record"—a transfer student who has participated in a contest (varsity, B team or junior high) in the last 12 months at a member school or a school holding membership in the state high school athletic association of another state that holds membership in the National Federation of State High School Associations.

Sections 12 - 16 apply to "transfer students with an athletic record".

Section 12. The official scholastic and athletic record of a transfer student must be attested by certificate from the principal of the former school. A transfer student shall not participate in athletics in the school to which he or she transfers until a transcript of his or her work and athletic record has been received by the principal and nis or her eligibility has been approved by the Executive Director.

Section 13. If a student enrolled in a member school or a state athletic association school holding membership in the National Federation of State High School Associations who has an athletic record the previous or current school year in football, basketball, baseball, girls softball, or track and field transfers from one school to another without a corresponding change of residence by his or her parents or guardians, the student shall be ineligible for athletic competition in these five sports for 12 months. If a student enrolled in a member school or state athletic association school holding membership in the National Federation of

State High School Associations who has an athletic record the previous or current school year in golf, tennis, wrestling, cross country, girls volleyball, girls soccer or soccer transfers from one school to another without a corresponding change in the residence of his or her parents or guardians the student shall be ineligible for 12 months in whichever sport he or she has an athletic record. After being out of athletic competition for a period of 12 months a student may become eligible at any member school provided he or she meets other eligibility requirements.

A student who attends a member private, parochial, or public school other than the school to which he or she is zoned and participates in athletics cannot transfer to another school within the territory served by these schools without losing his or her eligibility for a period of 12 months—even though there is a change of residence.

A student who attends a public school to which he or she is zoned and participates in athletics and transfers to a private, parochial, or public school other than the school to which he or she is zoned and the new school is in the territory or zone of his or her original school shall be ineligible for 12 months—even though there is a change of residence.

A student who attends a public school in a city or county which has definite school zones prescribed by the Board of Education and participates in athletics may become eligible at another city or county school if his or her parents move into that school zone. Such a student will be ineligible if he or she transfers to a private, parochial, or public school other than his or her zoned school.

If an athlete's parents move during the school year from one school district or territory into another district or territory, the athlete may transfer without loss of eligibility

to the school serving the district or territory into which his or her parents have moved: (a) at the time his or her parents change residence; (b) at the end of the next report card period; (c) at the close of the semester; (d) at the close of the school year.

If the parents or guardian of a student with an athletic record move after the athlete has been enrolled in a school for one year or longer, the athlete may continue to attend and retain his or her eligibility provided his or her parents pay the expenses incurred as a result of the student not living at home.

When a student makes a transfer due to the change of the residence of his or her parents or guardians, the student shall be ineligible until the Executive Director has reviewed his or her case and has declared him or her eligible.

If a student has been ruled eligible as a result of a change of residence by an athlete's parent(s) or guardian from residence A to residence B and a transfer of schools from a school serving residence A to a school serving residence B, and the parent(s) or guardian of the student return to residence A before the student has been enrolled in the school serving residence B for one complete year, the student will be ineligible for 12 months from their last participation date.

If an ineligible contestant competes in a contest(s) and forfeitures occur as a result of the ineligibility and the student is then ruled eligible to compete, the student will be ineligible to participate in twice the number of contests in which he/she participated as an ineligible student-athlete or he/she will be ineligible for the remainder of the season, whichever is the least.

Section 14. If a student with an athletic record the previous or current school year enters a school with higher grades, or a school with the same number of grades above the seventh grade, without having finished all the grades of his or her former school, he or she shall be ineligible for one year—except (a) that a student who has completed the eighth grade, and who is no longer eligible to participate on a junior high team because of age, may transfer to the public high school serving the district in which the student resides; (b) that a student who has completed the eighth grade may transfer to a senior high school in the system with grades 9, 10, 11 and 12, or a student who has completed the ninth grade may transfer to a senior high school in the same system with grades 10, 11 and 12 provided such transfer is approved by the board of education. (This rule shall not apply to students who transfer from junior high schools that do not hold membership in their state high school athletic associations, or TSSAA.)

Section 15. Students who change their school due to a bona fide change or establishment of bus routes by the county board of education and by the county superintendent shall not forfeit their eligibility. In cases where such a change in bus routes makes it equally convenient for a student to attend another school or the school in which he or she already has an athletic record, such student cannot transfer without losing eligibility for a period of 12 months.

Section 16. A student with an athletic record who transfers from a school where the student is under discipline shall be ineligible for 12 months or until the disciplinary charges have been removed.

1.

Q. A student who has a record of participation the previous year in baseball only transfers to a nearby

school without any change of residence on the part of the student's parents. Is that student eligible to participate in football or basketball?

A. No. Such a student is ineligible in football, basketball, baseball and track for a period of 12 months from the date of the last participation in baseball. (See Article II, Section 13 regarding eligibility in tennis, volleyball, wrestling, soccer, cross country and golf.)

2.

Q. A student transfers to a school because the student's parents have moved to the community in which the school is located. The student's scholastic and athletic records are satisfactory. May such a student be allowed to participate pending the approval of his or her transfer by the Executive Director?

A. No. All transfer students must be approved by the Executive Director before being allowed to participate.

3.

Q. If the parents of an athlete move from the district in which the athlete has been attending school, may this student remain in the school to which he or she has been going and live with someone other than his or her parents without forfeiting his or her eligibility?

A. Yes, provided he or she has been enrolled in that school for a year or longer, provided no "undue influence" has been used to cause the student to continue in the same school, and provided the parents pay the expenses incurred as a result of the student not living at home.

4.

Q. If an athlete's parents change residence after the beginning of the school year, must the athlete transfer immediately to the school serving the district into which his or her parents have moved?

A. No. The athlete may transfer to the new school without loss of eligibility at the time his or her parents move, at the end of the next grading period, at the end of the semester or at the beginning of the next school year. (If the athlete remains in his or her former school and participates in an athletic contest after his or her parents have moved, he or she cannot become eligible to participate in that sport in the second school until he or she has completed the report card period or the semester.)

5.

Q. How are the words "change of residence" to be interpreted?

A. As moving from one community to another so as to justify a change of schools. Moving across the street or a few blocks away from the former residence, or similar moves, cannot be accepted as justifying a transfer to another school.
TSSAA does not recognize "dual" residences (maintaining two homes, apartments, etc.)

6.

Q. What are guidelines that are used in determining whether a bona fide change of residence has taken place?

A. Some guidelines are, but not limited to:

1. Changing of mailing address

2. Disconnecting phone in previous residence

3. Disconnecting of utilities in previous residence

4. All furniture moved from previous residence

5. The original residence should be closed, rented, or disposed of and not used by family.

7.

Q. Is it possible for an athlete who does not live at home with his or her parents or guardians to become eligible?

A. Yes. After such a student has attended school for a full school **year**, and has lived in the community in which the school is located for a period of at least twelve months, the student's case may be submitted to the Executive Director for a ruling.

8.

Q. A student transfers schools under the following situations:

1. **From a private school where she or he participated in one or more sports to a public school in the system in which he or she resides.**

2. **From a boarding school where the student participated in one or more sports to a public**

school in the system in which he or she resides with his or her parents.

3. **From a public school where the student has been paying tuition to a public school in the system in which the student resides.**

A. In all three cases, the student is eligible provided: (1) it is the first time a transfer of this type has occurred since establishing an athletic record, (2) the participation is at the beginning of the school year following the transfer, (3) the transfer is not for athletic reasons or as a result of disciplinary action.

9.

Q. A student with an athletic record the previous year lives in Town A. His or her father gets work in Town B and decides it will be more convenient for his son or daughter to enter school in Town B since he or she can ride with him as he goes to and from work. Will such a student be eligible to participate on the school team of Town B?

A. No. There has been no change of residence.

10.

Q. An eighth grade student participates as a member of a high school or junior high school team. The next year the student transfers to another school without any change of residence on the part of his parents. Is the student eligible for athletic participation?

A. No. The student is a transfer with an athletic record the previous year. His or her parents have not changed residence. (This regulation is sometimes misinterpreted due to the statement that eighth grade

participation does not count against a student. Such participation does not count as one of the four years he or she is allowed to participate while in high school, but the student is charged with an athletic record the previous year and cannot therefore transfer to another school unless there has been a corresponding change of residence on the part of his or her parents.)

11.

Q. A student participates in basketball at school. He changes to school B without a corresponding change of residence by the parents and wants to play basketball. Is he eligible?

A. No. A student will be eligible twelve months from his or her last date of participation. Example: A student last played basketball on January 16, 1991 at school A. That student would be eligible at school B on January 17, 1992.

12.

Q. A student with an athletic record transfers from school A to school B without a corresponding change of residence of his or her parents. After three days at school B the student returns to school A. Is the student eligible to participate at school A?

A. No. The student is ineligible at all schools 12 months from his or her last participation date.

13.

Q. A student who transfers from school A to school B due to a bona fide change of residence by his or her parents is ruled eligible at school B and participates in athletics at school B. One month later the family of the student returns to the original residence where the student was attending school A. Is the student eligible

to participate in athletics?

A. No. The student is ineligible to participate in athletics for twelve months from his or her last participation date, since the parents have returned to the original residence serving school A before the student has been enrolled in school B for one year.

Foreign-Exchange Programs

Section 17. To be eligible to participate in athletic contests a foreign-exchange student must be in a foreign-exchange program which has been approved by the Council on Standards for International Educational Travel (CSIET).

1.

Q. A student from another country attends a TSSAA school and lives with someone other than his or her parents. Is the student eligible?

A. Yes, provided the student is in a Foreign Exchange program which has been approved by the Council on Standards for International Educational Travel (CSIET).

2.

Q. A student from another country comes to live with a new guardian and enrolls in a school where the guardians reside. The student is not in a Foreign Exchange program approved by the CSIET. Is the student eligible?

A. No. A student must be in a Foreign Exchange program approved by CSIET.

3.

Q. A student from another country attends a TSSAA school and is in a foreign exchange program that is not

approved by CSIET. Is the student eligible?

A. No. A student must be in a Foreign Exchange program approved by CSIET.

4.

Q. A student from another country is in a Foreign Exchange program approved by the CSIET. The student participates in athletics with a TSSAA school while living with one host parent then transfers to another school as a result of a change of host parents. Is the student eligible at the new school?

A. No. As a result of the change of guardians the student must now comply with the residence rule and transfer rule in the same manner as all other students.

Residence Rule

Section 18. To be eligible, any transfer student or student who has changed schools after having completed the highest ending grade at his/her school shall live at home with his/her parents or duly appointed guardians. They must live with their duly appointed guardian for a minimum of 12 months. Where the application of this rule works a manifest justice, the Board of Control may make an exception after student has been in school for 12 months from date of entry.

This regulation shall not apply to a boarding student at a private school nor to a student who is forced to change residence or guardianship due to the dissolution of his or her home by death, separation (provided divorce papers have been signed and processed through the courts), or divorce of parents. If a student has been living with a family for a period of 12 months, or longer, it shall be assumed for athletic purposes that the head of the family is the student's guardian.

An athlete will be eligible to participate in athletics

where the parents are divorced or separated (provided divorce papers have been signed and processed through the courts) the first time he or she changes residence from one parent to the other parent, after establishing an athletic record or practice record, provided there has been a court-ordered custody change and provided the principal of the student's former school indicates that the move was not for athletic reasons. An athlete will be eligible to participate in athletics the first time the student changes residence from a guardian other than a parent to either one or both parents, after establishing an athletic record or practice record, provided there has been a court-ordered custody change and provided the principal of the student's former school indicates in writing that the move was not for athletic reasons.

All such cases must be submitted to the Executive Director and the eligibility of the student established before he or she participates.

1.

Q. A student changes school because of the death of his or her parents or guardians. The change is necessary in order for the student to have a home. Is he or she eligible?

A. Such cases should be submitted to the Executive Director who will make a decision on the facts submitted.

2.

Q. It becomes desirable for a student to live with his or her grandparents. The change in residence causes a change of school. If the grandparents are designated as the guardians of this student will the student be eligible to participate in athletics?

A. Such a student may be ruled eligible by the Executive Director if he is convinced that the guidelines as

set forth in Article II, Section 30 have been met.

3.

Q. If an athlete with or without an athletic record lives with a guardian, or adopted parent, instead of his or her parents, is the student eligible for athletic participation?

A. He or she may be approved by the Executive Director if the student has lived with the guardian, or adopted parent, for twelve months or longer. If the athlete has lived with his or her guardian, or adopted parents, for a period of less than twelve months, he or she is ineligible unless approved by the Executive Director under the provisions of the hardship rule.

4.

Q. A student with or without an athletic record moves to live with a guardian other than a parent. Is the student eligible?

A. No. A student must live with the new guardian, if other than their parent, for 12 months or longer.

5.

Q. A student whose parents are divorced or separated (provided divorce papers have been signed and processed through the courts) participates in athletics at school A while residing with one parent. The student then transfers to school B where they are residing with the other parent. Is the student eligible to participate in athletics?

A. Yes, provided it is the first change from parent to parent since establishing an athletic record, there is a court-ordered custody change, and a letter from the principal of the student's former school indicating that the move was not

for athletic reasons.

6.

Q. A student whose parents are divorced or separated (provided divorce papers have been signed and processed through the courts) participates in athletics at school A while residing with one parent. The student then transfers to school B where they are residing with a guardian other than a parent. Is the student eligible to participate in athletics?
A. No. The student will be ineligible until he or she has lived with his or her new guardian for twelve months.

Practice Rule

Section 19. A student who engages in three or more days of practice with a school in which the student is enrolled shall be ineligible in that sport for that season if the student enrolls in another school without a corresponding change in the residence of the student's parents. A student who engages in three or more days of off-season practice with a school in which the student is enrolled shall be ineligible in that sport the following season if the student enrolls in another school without a corresponding change in the residence of the student's parents. This rule shall apply to football, girls volleyball, girls soccer, basketball, wrestling, girls softball, baseball and soccer. Refer to Article II, Section 1(b) for definition of enrollment.

Date of Enrollment

Section 20. A student shall not participate in athletics during any semester unless he or she is duly enrolled on or before the 20th school day of the semester. This rule shall not apply to transfer students who have met the attendance requirements in the school last attended.

Recruiting Rule

Section 21. The use of undue influence on a student (with or without an athletic record), the parents or guardians of a student by any person connected, or not connected, with the school to secure or to retain a student for athletic purposes shall be a violation of the recruiting rule.

1.

Q. How is undue influence interpreted in the recruiting rule?

A. A person or persons exceeding what is appropriate or normal and offering an incentive or inducement to a student with or without an athletic record.

2.

Q. What is the penalty for violation of the recruiting rule?

A. Violation of the recruiting rule shall cause the student to be ineligible at the school in violation, and a penalty shall be placed against the school.

3.

Q. Is it permissible for a coach to contact a student or his or her parents prior to his enrollment in the school?

A. No, a coach may not contact a student or his or her parents prior to his enrolment in the school. This shall apply to all students whether or not they have an athletic record.

4.

Q. What are some of the guides used in determining whether there has been undue influence used which would result in a violation of the recruiting rule?

A. Some examples are, but not limited to:

1. Providing of transportation or other inducement to any prospective student/athlete to take a qualifying examination at a school, meet with school officials, etc.

2. Discussion of financial aid based on need with any prospective student/athlete by any member of the coaching staff until the student has enrolled in school (attended 3 days of school). All financial aid questions should be referred to the principal or the person in charge of financial aid. If the person in charge of financial aid is a coach, prior approval must be granted by the Executive Director of TSSAA.

3. Any initial contact or prearranged contact by a member of the coaching staff or representative of the school and a prospective student/athlete enrolled in any member school except where there is a definite feeder pattern.

4. Any initial contact or prearranged contact by a member of the coaching staff or representative of the school and a prospective student/athlete in the seventh grade and above at any non-member school except where there is a definite feeder pattern involving the schools.

Public high schools may contact public feeder

schools (elementary, middle school, junior high school) where there is a definite feeder pattern. Private or parochial schools may contact private schools (elementary, middle school, junior high school) where there is a definite feeder pattern.

Private or parochial schools may not contact students enrolled at the public schools. Public schools may not contact students enrolled at the private schools.

5. Any contact between a member of the coaching staff or representative of the school and prospective student/athletes prior to, during, or after contests at elementary schools, middle schools, and junior high schools except where there is a definite pattern.

6. A member school is prohibited from giving any item with school advertisement (shirts, pennants, caps, jackets, etc.)

7. Admitting students to athletic contests free of charge where there is an admission being charged at the contest except where there is a definite feeder pattern involved with the school.

5.

Q. What is allowed by member schools in contacting prospective students?

A. A representative of the school may meet with students at a school that is defined as a feeder school or meet with students who are zoned to attend that school the following year. This visit must be cleared by the principals of both schools.

Guidelines For Understanding The "Recruiting Rule" and Understanding "What Is Undue Influence?"

1. The major theme of the "recruiting rule" is not "initial contact" The major theme is "exceeding what is normal and appropriate." Initial contact can be a violation, but is only one of many things that can exceed what is normal and appropriate.

2. One key is not treating "athletes" or "prospective athletes" any differently than students who are not athletes.

3. Students should be seen as students and not singled out based on their potential athletic ability.

4. Pre-arranged contact is seen in the same manner as initial contact.

5. Any student or family or individual that contacts a coach about attending a school where he or she coaches should be informed that they need to contact the principal, admissions department, or guidance department if they have an interest.

6. Any meeting with coaches regarding athletes or prospective athletes or their families should be at the request of the family to the individual(s) responsible for admissions and should take place at the school.

7. High school athletics is not the same as colleges recruiting high school athletes for college athletics. High school athletics exist for an entirely different reason. High school coaches should not view 12-, 13-, 14-year-old students in the same manner as college coaches view high school

seniors.

8. Administrators and coaches must realize that they have more responsibilities than the general public to understand the purpose of high school athletics, the principles behind the TSSAA rules, etc., and to maintain a level of understanding and purpose when dealing with the general public and students.

Amateur Rule

Section 22. A student who has never used and is not using his or her knowledge of athletics or his or her athletic skill for pay in the sports which this Association governs and who has always contested under his or her own name is an amateur. (Accepting money for officiating athletic contests or for working as an employee in a city or county recreation program is not a violation of this regulation.) A student who violates the amateur rule shall be ineligible for 12 months in the sport in which the violation occurs.
Such a student may be reinstated as an amateur after a period of one calendar year from the time he or she was declared ineligible has elapsed, provided he or she has not violated the amateur rule during this period.

A student who signs a professional baseball contract shall be ineligible to participate in high school sports after the signing of such contract.

Award Rule

Section 23. A student may accept a medal, trophy, high school letter, sweater, jacket, shirt, blazer or blanket but nothing else of commercial value. (A sweater, jacket, shirt, blazer or blanket must carry the high school letter or other appropriate award emblem.) None of the approved

awards shall be accepted from an individual or a non-school organization unless the giving of such award has been approved by the principal of the school the athlete attends. Acceptance of forbidden awards will cause a student to become ineligible for 12 months in the sport in which the violation occurs. Golf and tennis students will abide by USGA and USTA regulations in accepting awards.

Section 24. A member school that has any connection with the presentation of a forbidden award — such as assisting in the selection of the person to receive the award, permitting the award to be given at a school function, or holding the award for a student until he or she has graduated — shall be subject to penalty.

1.

Q. If a student accepts cash, merchandise or other compensation in a sport sponsored by TSSAA will he or she lose his or her eligibility in that sport?

A. Yes, competing for anything of commercial value during the school year or during the summer vacation is a violation of the award rule. (An exception to this would be in golf and tennis as regulated by USGA and USTA Award Rules.)

2.

Q. Is it a violation if an athlete permits his or her picture, name or personal appearance to be used for purposes of endorsing or promoting the sale of an article or service?

A. Yes.

College Attendance

Section 25. No person is eligible who has ever

attended college or who has played on a junior college, senior college, or university team.

Student Employment

Section 26. A student who is filling a place as librarian, monitor, secretary, janitor, waiter, or any other position for which that student receives a consideration shall be ineligible to take part in any athletic contest until the Executive Director shall have passed on the case and decided that the service rendered is adequate return for the concession made.

1.

Q. Is it permissible for a school to employ a student for summer work who has not attended the school the previous year?

A. No. In order for a student, who will be participating in athletics, to be employed by a school during the summer the student must have attended the school the previous school year.

Tuition and Financial Aid

Section 27. If tuition is charged, it must be paid by parent, bona fide guardian or other family member. If a parent, guardian or other family member secures a loan for payment of tuition, it must remain an obligation of the parents, guardian or other family member to repay the principle and interest in full with no exceptions. Financial aid will be allowed under the following conditions:

1. Children of full-time faculty members may be given financial aid, but such students, if transfers, shall be ineligible for 12 months in any sport in which they have an athletic record for the previous or current year.

2. Financial aid may be awarded on the basis of

need, but proof of such need must be filed in the TSSAA office on forms approved by the Executive Director. In order to determine the basis for need, all schools awarding financial aid shall use the School and Student Scholastic Service for Financial Aid of Princeton, New Jersey. A committee consisting of five School Heads from Division II schools, selected by these schools, and one ex-officio, non-voting member from the Board of Control will meet and make recommendations to the TSSAA Board of Control on each student submitted. In addition, this committee will collect information from schools regarding financial aid statistics, grant procedures, and the overall financial aid program within the school. The TSSAA Board of Control will then rule on all cases at the August meeting. The TSSAA Board of Control shall have authority to reject the basis for need for students when in its opinion, or the opinion of the school committee, the amount of need stated by School and Student Scholastic Service for Financial Aid of Princeton, New Jersey, cannot be justified.

3. Any loan program, grant program, educational foundation or similar program that is established and/or administered, in whole or in part, by a school or official of a school is considered financial aid.

Schools shall remove any student from athletic eligibility whose accounts with the school are 60 days overdue.

All records pertaining to financial aid or tuition assistance shall be open to TSSAA upon its request. Each school shall be responsible for securing necessary authorization to allow TSSAA to review or audit such records.

Specialized Camps

Section 28. All expenses of an athlete who attends any athletic camp where specialized instruction is offered in

any sport sponsored by TSSAA must be paid by the athlete or his or her parents.

Setting Aside Eligibility Rules

Section 29. No part of these eligibility rules shall be set aside by mutual agreement for any contests whatsoever nor shall they be supplemented in any contest held under the jurisdiction of this Association.

Special Cases Involving Hardship

Section 30. Except for the eligibility rules in regard to age and to the number of semesters in school, the Executive Director shall have authority to set aside the effect of any eligibility rule upon an individual student when in his opinion the rule fails to accomplish the purpose for which it is intended or when the rule works an undue hardship upon the student.

The conditions causing the student to fail to meet the eligibility requirements must have been beyond the control of the school, the student and/or his or her parents, and such that none of them could have reasonably been expected to comply with the rule the violation of which is involved.

If the student has transferred from another school, it is recommended that a statement be filed from the administration of the previous school regarding the transfer. (The statement shall explain why the transfer is being made and give any other information that should be taken into consideration in deciding whether the student shall be eligible to participate in athletics.)

Any decision of the Executive Director may be appealed to the Board of Control at the August, November, January or March meetings.

If any hardship appeal is received after one week prior to the Board of Control meeting, the school will have

to pay for additional expenses in order to get material to the Board.

Each school must have an administrator (principal, assistant principal or athletic director) from that school present in order to appear before the Board of Control regarding an appeal.

Physical Examination and Parental Consent

Section 31. It is required that no student be permitted to participate in practice sessions or in athletic contests until there is on file with the principal a preparticipation medical evaluation form signed by a properly licensed doctor of medicine that the student has passed a physical examination, not prior to May 1, and that in the opinion of the examining physician, the student is physically fit to participate in interscholastic athletics. Physician assistants and nurse practitioners may conduct routine preparticipation medical evaluations on athletes according to this form under the supervision of a physician or team doctor at the sole discretion of the TSSAA. The official signature on the form must be that of the supervising physician.

No student shall be required to submit to a physical exam if his/her parent(s) or legal guardian shall file with the principal a signed, written statement (affirmed under the penalties of perjury) declining such physical examination on grounds of sincerely held beliefs or practices.

It is required that no student be permitted to participate in practice sessions or in athletic contests until there is on file a parental consent certificate signed by a parent or legal guardian stating that the student has the consent of his or her parent(s) or legal guardian to participate.

Forfeitures

Section 32: All rulings on eligibility must be in writing, and the accidental, intentional or other use of ineligible players by a member school shall require that team victories in which the ineligible player participated are forfeited to opponents; and any one or more of these additional actions may be taken:

(a) That individual or team records and performances achieved during participation by such ineligibles be vacated or stricken;

(b) That team or individual awards earned by such ineligibles be returned to the TSSAA; and

(c) That a fine for the playing of an ineligible player be assessed against the school, if deemed necessary.

Section 33: If a team is removed from competition, the contest is forfeited to the opponent and the school will face disciplinary action by TSSAA. In addition, the coach and principal of the removed team must appear before the Executive Director to indicate why additional disciplinary action should not be taken.

Section 34: If the coach is ejected from the contest and an assistant coach or full-time employee of the board of education that possesses a teacher's certificate and is assigned as a school representative is not available to continue as coach, the event is terminated and forfeited to the opponent.

Section 35: If a student is ineligible according to TSSAA rules but is permitted to participate in interscholastic competition contrary to such TSSAA rules but in accordance with the terms of a court restraining order or injunction against his/her school and/or the TSSAA, and that injunction is subsequently voluntarily vacated, stayed,

reversed or finally determined by the courts that injunctive relief is not or was not justified or expires without further judicial determination, those actions stipulated in Section 32 shall be taken.

Section 36: If an ineligible contestant competes in a meet, match or tournament and any violation of TSSAA rules occurs, all points earned by that student, or by a relay team of which he or she may have been a member, in that meet or tournament are to be declared forfeited; and in team sports (baseball, basketball, football, girls soccer, soccer, girls softball and girls volleyball) the entire contest is forfeited.

* * *

ARTICLE III

Schools Which Member Schools May Play or Scrimmage	Intrastate Tournaments and Meets
Interstate Tournaments and Track Meets	Varsity Team
Eligibility Lists	Filing Schedule Reports
Coaches	Rules of the Game
Duties of the Principal	Number of Regular Season Football Games
Practice and Playing First Football Games	Football Bowl Games
TSSAA Sports Calendar	Jamborees
Conduct of Students	TSSAA Share in Tournament Receipts
Awards	Use of Tobacco

Schools Which Member Schools May Play or Scrimmage

Section 1. A member of the Tennessee Secondary School Athletic Association is permitted to play or scrimmage:

(a) Other members of this Association.

(b) Schools holding membership in the state high

school athletic associations of other states, and which associations hold membership in the National Federation of State High School Associations.

(c) Also secondary schools operated by any agency of state government (Schools must be in category 1, 2 or 3), provided all players allowed to represent such schools meet the TSSAA semester, transfer, scholarship, and award rule. Member schools that schedule athletic contests with schools of this type shall require such schools to file with them, and with the state office, a form which states that all students who will participate in the contest are eligible under their association rules and that they also meet the requirements of the TSSAA semester, transfer and scholarship award rules. (This form may be obtained from the TSSAA office.)

(d) One alumni game in any sport except football. Contests with college freshmen teams in track and field, baseball, girls softball, golf, tennis and girls volleyball provided such contests do not involve more than one TSSAA team and one college freshman team.

(e) Any school with grades 9 and above which is approved by the State Department of Education, State Department of Education approved agencies (Schools must be in category 1, 2 or 3) and/or the Southern Association of Colleges and Schools provided it has been approved in writing by the Executive Director. Such schools may compete with TSSAA member schools in regular-season contests and invitational tournaments or meets. In such contests TSSAA-approved officials will be used. Such schools will abide by the TSSAA eight semester and age rule.

(f) Any elementary or middle school with any combination of grades K-8 provided both the member school uses only students in grades 7 and 8 and the elementary or middle school uses only students in grades 7 and 8 and provided the non-member school is approved by the State Department of Education, State Department-approved agencies (Schools must be in category 1, 2 or 3.) and/or the

Southern Association of Colleges and Schools provided it has been approved in writing by the Executive Director. Such schools may compete with TSSAA member schools in regular-season contests and invitational tournaments or meets. In such contests TSSAA-approved officials will be used. Such schools will abide by the TSSAA four-semester and age rule.

Q. Will the TSSAA enforce verbal contracts?

A. No. All contracts, to be binding, should be written on the regular contract forms.

Intrastate Tournaments and Meets

Section 2. No member school shall enter any intrastate basketball, girls volleyball, wrestling, girls soccer or soccer tournament, or any intrastate track and field meet unless said tournament or meet is sanctioned in writing by the Executive Director. (This does not apply to dual, triangular or quadrangular track and field meets.)

Interstate Tournaments and Track Meets and Contests With Out-Of-State Teams

Section 3. The TSSAA is a member of the National Federation of State High School Associations.
All interstate tournaments or meets in track and field, tennis, golf, baseball, girls softball, girls soccer, soccer, cross country, girls volleyball, wrestling, basketball or football—also any single contest in any of these sports with an out-of-state team which involves a round trip exceeding 600 miles or any single contest with an out-of-state team that is sponsored by an individual or an organization other than a member school—must be sanctioned by the National Federation and the state associations concerned. Only one out-of-state trip involving travel in excess of 600 miles by a

team of a member school will be sanctioned during any one season.

Schools which participate in non-sanctioned tournaments, meets, or contests, shall be subject to suspension. Applications for the sanction of an interstate tournament, meet, or out-of-state contest involving travel of over 600 miles or the sponsorship of an individual or non-school organization shall be made to the Executive Director.

Q. Must all games with out-of-state teams be sanctioned by TSSAA, the other state association, and the National Federation?

A. No. Only those games which involve travel in excess of 600 miles round trip, and those games sponsored by individuals or organizations other than member schools require such sanction.

Q. May a TSSAA school participate in intrastate tournaments or meets that have not been sanctioned?

A. No. All intrastate tournaments and meets must be sanctioned by TSSAA, the other state associations concerned, and the National Federation.

Varsity Team

Section 4. There can be only one varsity team in any sport.

Eligibility Lists

Section 5. An eligibility list containing the name of each student who is to participate during the season in each sport shall be filed by the principal with the Executive Director and postmarked one week prior to the first contest. If a student whose name does not appear on the original eligibility list wishes to become a member of the squad, a supplementary form listing the student's name must be filed

with the state office before the student is allowed to participate. The penalty for violation of this rule shall be a fine of $25.00. Any school failing to file such reports promptly along with checks for penalty, after being notified by the Executive Director, shall be subject to suspension.

Filing Schedule Reports

Section 6. Member schools shall file with the state office a copy of the schedule in each sport one week prior to the first contest. Penalty for failure to file the schedule report one week prior to playing the fast contest shall be a fine of $25.00.

Coaches

Section 7. All coaches will fall under one of the following categories:

1. Full-time employee (a minimum of 100 school days) of the board of education with a Tennessee state teaching license or the equivalent.

2. Retired educator (five or more years experience) with a valid Tennessee state teaching license or the equivalent.

3. Non-faculty coach—Anyone approved by the principal, superintendent, and/or local board of education in the normal course of employment procedures in accordance with applicable state law.

A. The position has been advertised and no full-time employee with a teaching license who meets the qualifications required for coaching the specific sport in question is available.

B. All head coaches in football, basketball, baseball,

girls softball, and track and field must be full-time employees with a Tennessee state teaching license (see #1 above).

C. All non-faculty coaches who are not retired educators (see #2 above) must complete the NFICEP Coaches Education Program in a TSSAA-approved course within one year of his/her employment and must continue to renew this certification every three years by completion of additional NFICEP courses. In addition, all non-faculty coaches who are not retired educators must attend the TSSAA Coaches Training Meeting annually.

D. All head non-faculty coaches in girls volleyball, cross-country, golf, wrestling, tennis, girls soccer and soccer must complete the NFICEP Coaches Education Program in a TSSAA-approved course prior to assuming the position.

E. In using retired educators and non-faculty coaches, a school shall be limited to a total of two coaches in football and one coach in all other sports. The individuals may be assistant coaches in football, basketball, baseball, girls softball, and track and field, and they may be either head coaches or assistant coaches in all other sports.

F. All coaches are subject to the TSSAA rules and regulations as regular coaches and must conduct themselves in a manner becoming of a coach and representative of the school. All coaches are responsible to the principal of his/her school.

Coaches must be paid entirely from funds approved by the board of education or the governing board of the school.

Rules Of The Game

Section 8. The official rule books as published by the National Federation of State High School Associations shall be used in football, basketball, baseball, girls softball, wrestling, girls soccer, soccer, track and field and girls

volleyball. (Except for football and basketball, there shall be a $25.00 administrative fee for girls and boys teams participating in each sport. The $25.00 administrative fee shall be mailed to TSSAA prior to the playing of the first contest in each sport. Failure to send the $25.00 administrative fee prior to the first contest will result in an additional $25.00 late fee.)

Duties Of The Principal

Section 9. A principal shall furnish to the Executive Director such information as may be desired concerning eligibility of contestants, participation and reports on officials. Failure to comply within a reasonable time shall subject the school to suspension, fine or other penalty. Any eligibility or participation list shall remain on file in the principal's office for a period of not less than five years.

Number of Regular Season Football Games

Section 10. A football team shall be permitted to play a maximum of 10 games if it is participating in the football playoff series, 11 games for the first round of the football playoff series, 12 games for the second round of the football playoff series, 13 games for the quarterfinals of the football playoff series, 14 games for the semifinals of the football playoff series, and 15 games for the finals of the football playoff series. Schools that do not qualify for the fall playoff series may schedule an additional game for a total of 11 games.

Practice and Playing First Football Game

Section 11. There shall be no football practice in pads time the close of school until the date set for beginning fall practice. The date for beginning fall practice shall be August 1. A game may be played on Wednesday or

Thursday preceding the Friday of the first scheduled football game.

Football Bowl Games

Section 12. A school must participate in the TSSAA region football playoff series and win at least five games in order to be eligible to participate in a football bowl game. No member school may participate in a football bowl game if the opponent represents an out-of-state school.

Any football game scheduled after the fast Friday in September — if it is sponsored by a non-school organization — or any football game scheduled at any time — if the participating teams are not named at the time the game is scheduled — will be considered as a bowl game.

Sponsors of football bowl games shall obtain written approval from the Executive Director of TSSAA before scheduling such contests. No member school shall agree to play in a bowl game without first ascertaining that the proposed game has been approved by TSSAA.

SPORTS CALENDAR [Omitted]

* * *

Section 13. An invitational tournament shall count as two games in basketball, girls soccer, soccer, baseball and girls softball. All tournaments shall be held on consecutive days with no other regular-season games being played during the tournament unless permission is granted by the Executive Director.

In all individual sports (cross country, golf, track and field, tennis and wrestling) individuals accompanied by a coach may enter varsity competition at different sites at the same time and date, and this will count as two dates on the schools' schedule.

Any school that is starting a sport for the first time

may have five days of off-season practice prior to the first season the sport begins. This would apply to girls volleyball, girls soccer, soccer, baseball, girls softball and track and field. It would not apply to football and basketball since schools are allowed 10 days in these sports.

A school may open its facilities to all students in their school and coaches may serve in a supervisory capacity only. No practice schedules may be followed, the facilities must be open to everyone in the school, and coaches may serve in a supervisory capacity only.

In the summer, practice shall be limited in all team sports (football, girls volleyball, girls soccer, basketball, baseball, softball and boys soccer) to 10 days of school-against-school competition. In fall sports, this would apply to the period of time from the end of school until August 1 (opening day of practice). In other sports, this would apply from the end of the school year to the beginning of the following school year.

Q. The basketball squad is scheduled to practice during the sixth period. Is this a violation?

A. No. TSSAA practice restrictions are not enforced during the school day. Practice restrictions as outlined in the Sports Calendar apply at the close of the school day.

Q. After the school day has ended the gymnasium is left open and any student who wishes to shoot baskets, including members of the basketball squad, are allowed to do so. Is this a violation if it occurs at times other than those allowed under the sports calendar?

A. No. Schools may open their facilities with approval by the principal, provided the facilities are open to all students enrolled in their school. Coaches may serve in a supervisory capacity only. There can be no practice schedules, no requirements for players to attend, etc. The concept of "open facilities" allows school to use their facilities for all their students in a free play atmosphere with

coaches being allowed to serve in a supervisory capacity.

Q. A coach has a weight lifting program at school during off season. The program is on to both players and non-players. Is this a violation?

A. No, provided activities are limited to weight lifting, and provided no player is required to attend.

Q. Can a coach have a running program in the off season?

A. Yes, if it is a program that would benefit all students as long as it is open to all players and non-players.

Q. May a school with grades 7-12, 8-12 or 9-12 have 10 days of varsity spring football or basketball practice and 10 days of freshman spring football or basketball practice?

A. No. A school may have only 10n days of off-season practice in football and/or basketball.

Section 14. The sports season for a school shall end when the team has been eliminated from the TSSAA tournament series or has won the state championship. The sports season shall end for a school whose team does not enter the tournament series with the playing of the last regularly scheduled game.

Jamborees

Section 15. A member school may participate in one jamboree per sport provided (a) the jamboree is approved by the state office and is held before any of the participating schools play the first game; (b) the jamboree is sponsored by the participating schools and all proceeds go to the participating schools; (c) the jamboree is conducted in accordance with the following regulations:

A. The number of minutes in two regulation quarters of the

sport involved shall be the maximum time any one team shall play in a jamboree.

B. Registered TSSAA officials must be used.

C. Schools participating in a jamboree must file the regular eligibility report with the state office prior to participating.

D. Schools must hold membership in TSSAA or membership in a Tennessee conference in order to be eligible to participate in a jamboree. (Out-of-state schools must obtain approval from their state association before participating.)

E. Football schools may participate in a jamboree as early as Thursday of the week preceding the opening of football season.

F. Basketball schools may participate in a jamboree one week preceding the opening of basketball season. Participation in such a jamboree shall not count as a regular-season contest.

Conduct of Students

Section 16. A student who uses insulting or profane language or who is guilty of foul tactics, in addition to being disqualified by the referee shall be subject to such additional penalties as the Board of Control or Executive Director may deem best.

TSSAA Share In Tournament Receipts

Section 17. Fifteen percent of the gross proceeds from district and regional girls volleyball, district and regional girls soccer, district and regional soccer, regional track and field meets, invitational and regional wrestling tournaments, invitational, county, conference, district and regional basketball tournaments shall be paid to TSSAA. This regulation shall apply to junior division basketball tournaments, but not to "B"-team tournaments.

After all expenses in connection with the holding of the state tournaments in basketball, track and field, baseball, girls softball, girls volleyball, girls soccer, soccer and wrestling have been paid, any remaining funds from the gate shall be placed in the TSSAA treasury.

Awards

Section 18. TSSAA shall furnish trophies, plaques, ribbons and medals in TSSAA-sponsored sports as determined by the TSSAA Board of Control.

Use of Tobacco

Section 19: The use of tobacco in any form by coaches, officials, and athletes is prohibited at TSSAA sanctioned events.

Last Modified July 14, 1997

JA-204

TENNESSEE SECONDARY SCHOOL
[TSSAA LOGO] ATHLETIC ASSOCIATION

P.O.Box 319• 3333 Lebanon Road•Hermitage, Tennessee 37076
615/889-6740 Fax 615/889-0544

July 3, 1997

Mr. Bill Brown, Principal
Brentwood Academy
219 Granny White Pike
Brentwood, TN 37027

Dear Mr. Brown:

Enclosed is preliminary information obtained as a result of questions concerning potential violations of TSSAA rules by Brentwood Academy. The information is confidential and is a review of facts as we have them at this point. Please review and respond to the questions indicated by July 15, 1997.

Sincerely

/s/ Ronnie Carter

Ronnie Carter
Executive Director

RC: wmb

enclosures

[ENCLOSURE]

We have met with Mr. Bill Brown and requested a meeting with Mr. Carlton Flatt and Mr. Robert Butler, but Brentwood Academy requested that everything be placed in writing and that meetings could be set up at a later date. We have received written responses from Mr. Flatt and Mr. Butler. Any further meetings will be at the request of Brentwood Academy. In addition, we have talked with four student-athletes from two middle schools and six coaches from four middle schools.

After reviewing all information, the following facts have been established:

1. Coach Flatt left three tickets for a game at Brentwood Academy this past fall (1996) for Kevin Armstrong, middle school coach at Neely's Bend. Mr. Armstrong used the tickets for himself and two student-athletes at Neely's Bend Middle School.

   The information from Brentwood Academy indicates that any coach, teacher, or administrator from any school is admitted free to all athletic contests upon request to the athletic director. Mr. Flatt states that he had never heard of Mr. Armstrong until he called him about two students at Neely's Bend who would benefit from Brentwood Academy. The information from Brentwood Academy indicates that students above the sixth grade are not admitted free to football or basketball games. This would indicate that students below the sixth grade are admitted free.

   Follow-up questions:

   (1) How are all schools notified of this policy? Since the information indicates that any teacher at any school can be admitted free

upon request to the athletic director, how is this handled administratively with such a large number of schools and teachers involved?

(2) Are students below the seventh grade admitted to Brentwood Academy contests at no charge? Is this a blanket policy with a sign that says anyone below the seventh grade does not have to pay or are students in the sixth grade and below selectively admitted free to contests as either a group, team, etc.? If they are admitted in groups, please explain how this works.

2. Twelve students from nine middle schools participated in spring football practice in 1997 at Brentwood Academy. Information from Brentwood Academy indicates that none participated in 1995 and only one in 1996. The information indicates this policy was changed this year to include all male students who had applied to Brentwood Academy. The middle schools are from Williamson County, Davidson County, and Wilson County and include two schools that would be 45 minutes from Brentwood Academy. No transportation is provided by Brentwood Academy. The information from Brentwood Academy indicates that Coach Flatt called Ronnie Carter the last three years about students participating in spring practice to make certain the policy had not changed and that permission was given for students to participate in practice as they were accepted in admission and the school had written indication that they planned to attend Brentwood Academy – I find no record of any letter written to Brentwood Academy in the last three years granting any permission. Since there were no students participating in 1995 and only one in 1996, I

question why phone calls would have even been made in this area. The phone call would have dealt with the fact that students may participate in spring practice but this telephone call occurs many times with many coaches across the state and is generally followed up with the many pitfalls and dangers that will occur if students are permitted to participate, such as questions regarding transportation, insurance, exposure to liability, etc.

If Brentwood Academy has a letter granting permission, please enclose that with this information. I find no record on our telephone log regarding any information of the type that is indicated in your response.

3. The following coaches on the staff of Brentwood Academy are coaching AAU or church basketball teams this spring (1997):

John Patton –	15 and under AAU boys with five students on the team from Brentwood Academy who will either be freshmen or sophomores in 1997-98.
Brad Perry –	13 and under AAU boys
Robert Butler–	10 and under AAU girls 12 and under AAU boys

In addition, Mr. Butler coached a sixth grade girls teams in a church league with Mr. Bart King in the fall and winter of 1996.

4. Mr. Flatt has written letters to student-athletes at middle schools regarding spring football practice. The

information indicates this is done to students who have applied, been tested, and accepted. Information indicates that they must pay $300.00, but this , is not required if a student has applied for financial aid. In addition, Mr. Flatt has called students or their parents either at the request of Ms. Nancy Brasher, Admissions Director, or on his own. The information indicates this is done if there are questions concerning eligibility, but the information also indicates calls to parents or student-athletes regarding subjects other than eligibility, such as spring practice, spring practice being cut short, "athletic" questions, etc.

5. The information from Mr. Butler indicates little knowledge of the eight middle school student-athletes. He knows Mr. Patton as a fellow coach at Brentwood Academy and Mr. King through his work as chairman of the Brentwood Rotary Girls Basketball Tournament and through working with him as coach of a sixth grade girls basketball team in the fall.

6. Other information obtained in conversations with student-athletes or coaches at Neely's Bend Middle School, Cameron Middle School, Goodlettsville Middle School, and East Middle School is as follows:

   (1) According to a student-athlete at East Middle School, Mr. King started asking him if he wanted to go to Brentwood Academy two years ago. Also, Mr. King told him that if he went to Brentwood Academy, he would <u>probably</u> have a car when he is in the 10th grade. Mr. King gave a student-athlete from Cameron Middle School, as well as the student-athlete at East, the number for Brentwood Academy and told them to have their parents contact Mrs. Tate. Also according to this student-athlete, Mr. King is

recruiting two student-athletes from East and one from Cameron Middle School, and someone else is in charge of recruiting a student-athlete from Neely's Bend Middle School.

(2) According to a second student-athlete at East Middle School, Mr. King has bought his relative clothes, shoes, and jewelry and has told him that all he wants him to do is attend Brentwood Academy.

(3) According to a third student-athlete at East Middle School, Mr. King arranged for him and another student from East to take the entrance exam at Brentwood Academy. He also picked up the other student-athlete and took him to work with him, as well as bought the other student-athlete a bracelet.

(4) According to a coach at Cameron Middle School, Mr. John Patton has taken a student-athlete from Cameron to several Brentwood Academy football games.

(5) According to a coach at Goodlettsville Middle School, Mr. King is recruiting his best athlete and told that particular student-athlete that he would get him a scholarship and provide transportation to Brentwood Academy.

7. **We are requesting the following information from admissions: names of all students at the following schools who have contacted Brentwood Academy or have been contacted by Brentwood Academy regarding admissions, enrollment, application, etc. -**

- Neely's Bend Middle School, Goodlettsville Middle School, Cameron Middle School, and East Middle School

8. We are requesting that Brentwood Academy submit information in writing to follow-up questions #1 and 2 and respond to follow-up in paragraph #2.

In addition, we are asking the administrative staff and coaches at Brentwood Academy to review all the information and inform us of any part of it that is incorrect or any additional information that should be added to our findings. Specifically, we have received letters from Carlton Flatt and Robert Butler. There are also statements involving Coach Perry, Coach Patton, and Mr. King. Since the information from Brentwood Academy to us indicates that Mr. Butler and Mr. Flatt have had contact with Mr. King, we are asking Brentwood Academy to respond to any parts of information involving these individuals.

We are requesting, at this time, that there be no further contact on the part of the staff of Brentwood Academy or Mr. King with the following students: Jermonde Davis, Glean Eddy, Jesse Kellogg, Jacques Curry, Jarvis Curry, Altony Williams, and George King. We are also requesting that there be no further contact with the following coaches: Kevin Armstrong, Donnie Crenshaw, Clay Mays, and David Brooks.

9. We are also asking for information regarding "Brentwood Academy and Nashville Kats Football Camp" which is being held in Clarksville and Columbia Many of our member schools hold summer camps on

their campuses as a part of their summer program. This is the first incident, to my knowledge, of a school holding summer camps under the school name at sites other than their school campus. What is the connection with the Nashville Kats? What is the purpose of the camp? Does the camp have the approval of the administration of Brentwood Academy? Any other information regarding the camp that can be provided would be appreciated.

* * *

[LOGO] Brentwood Academy

219 Granny White Pike
Brentwood, Tennessee 37027
615-373-0611 FAX: 615-377-3709
EMail: Office@brentwoodacademy.com

William B. Brown, Jr.
Headmaster

July 15, 1997

Mr. Ronnie Carter, Executive Director
Tennessee Secondary School
Athletic Association
P.O. Box 319
3333 Lebanon Road
Hermitage, TN 37076

Dear Mr. Carter:

This letter is in response to a letter we received from you dated July 3, 1997.

First, before we respond to each of the specific items in your letter of July 3, we want to "clear the air" and communicate the spirit and attitude that we have at Brentwood Academy regarding the issues raised in your letter. In short, the attitude at Brentwood Academy is to comply with both the spirit and the letter of the TSSAA regulations. We have investigated this matter and we strongly feel that we have done nothing wrong. We are also willing to cooperate with your investigation.

When representatives of the TSSAA appeared at my office to request a meeting, I wanted to cooperate, but I already had a scheduled appointment. The reason Brentwood Academy has requested your staff call for appointments before meeting is simply to enable us to

conduct our business in an orderly manner. If we know someone from the TSSAA is coming, we can set aside the appropriate amount of time to discuss any matters the TSSAA wishes to raise. For the same reason, Brentwood Academy requested that the issues about which the TSSAA had a concern be placed in writing. It simply seems reasonable to make sure that everybody understands the agenda so that there will be no misinterpretation.

We are willing to meet and cooperate. We do not want this process to be confrontational. We have done nothing wrong, and we want to satisfy your concerns and resolve the issues raised in your letter of July 3. Mr. Flatt, Mr. Butler, and I have done everything in our power to respond professionally in writing, and we will continue to respond to your questions. We have nothing to hide.

In response to the specific issues raised in your letter, we would like to make the following points, in addition to the information which you have already been supplied.

1. ***Coach Flatt left three tickets for a game at Brentwood Academy this past fall (1996) for Kevin Armstrong, middle school coach at Neely's Bend. Mr. Armstrong used the tickets for himself and two student-athletes at Neely's Bend Middle School.***

Mr. Flatt has gathered as much information as he can about this first question, and to the best of his recollection, he left two tickets for a game at Brentwood Academy in the fall of 1996 for Kevin Armstrong. As he stated in his previous letter, Mr. Flatt told Mr. Armstrong that the tickets could not be used for any student in the seventh grade or above. Whether Mr. Flatt left two or three tickets, he specifically remembers telling Mr. Armstrong that the tickets could not be used for a student in grade 7 or above. Because Mr. Flatt did not know the caller except that he was a Metro public school coach, he discussed it with Coach Dalton. Mr. Flatt told him (Coach

Dalton) to remember this situation and that he (Mr. Flatt) had told Mr. Armstrong that the tickets could not be used for a student in grades 7-12.

The information from Brentwood Academy indicates that any coach, teacher, or administrator from any school is admitted free to all athletic contests upon request to the athletic director. Mr. Flatt states that he had never heard of Mr. Armstrong until he called him about two students at Neely's Bend who would benefit from Brentwood Academy. The information from Brentwood Academy indicates that students above the sixth grade are not admitted free to football or basketball games. This would indicate that students below the sixth grade are admitted free.

Clarification: Mr. Flatt states that he had never heard of Mr. Armstrong until he (Mr. Armstrong) called him (Mr. Flatt) about two students at Neely's Bend who would benefit from Brentwood Academy. Mr. Armstrong stated that he wanted information about the admission process and that he was calling several schools. Mr. Flatt told him that the parents would have to contact the school. The statement that "students below sixth grade are admitted free" is misleading. Upon request, some students sixth grade and below have been admitted free.

[2]

(1) How are all schools notified of this policy? Since the information indicates that any teacher at any school can be admitted free upon request to the athletic director, how is this handled administratively with such a large number of schools and teachers involved?

Brentwood Academy does not have a written policy regarding free tickets for coaches, teachers or administrators from different schools. This is simply a matter of Mr. Flatt, on behalf of Brentwood Academy, extending a courtesy to personnel and educators from other schools. Only upon request, has Mr. Flatt left tickets for

games for school personnel. Mr. Flatt even recalls joking with you on numerous occasions about how he feels about school personnel paying for sporting events.

Other schools are not notified of a "policy" because no official written school policy exists. Mr. Flatt only receives minimal requests for tickets. His estimation is approximately 10 per year. He does not keep any records of the people who call him but could provide a list of names from his memory upon request. When they call he simply instructs Coach Buddy Alexander to leave the appropriate number of tickets in an envelope at the ticket office, with the name of the person who called.

(2) Are students below the seventh grade admitted to Brentwood Academy contests at no charge? Is this a blanket policy with a sign that says anyone below the seventh grade does not have to pay or are students in the sixth grade and below selectively admitted free to contests as either a group, team, etc.? If they are admitted in groups, please explain how this works.

Likewise, there is no written policy to admit students below the seventh grade to Brentwood Academy contests at no charge. Mr. Flatt remembers two situations where two adults requested tickets for their families which included children below the seventh grade.

2. Twelve students from nine middle schools participated In spring football practice in 1997 at Brentwood Academy. Information from Brentwood Academy indicates this policy was changed this year to include all male students who had applied to Brentwood Academy. The middle schools are from Williamson County, Davidson County, and Wilson County and include two schools that would be 45 minutes from Brentwood Academy. No transportation is provided by Brentwood Academy. The information from Brentwood Academy indicates that Coach Flatt called Ronnie Carter the last three years about students participating

in spring practice to make certain the policy had not changed and that permission was given for students to participate in practice as they were accepted in admission and the school had written indication that they planned to attend Brentwood Academy—I find no record of any letter written to Brentwood Academy in the last three years granting any permission. Since there were no students participating in 1995 and only one in 1996, I question why phone calls would have even been made in this area. The phone call would have dealt with the fact that students may participate in spring practice but this telephone call occurs many times with many coaches across the state and is generally followed up with the many pitfalls and dangers that will occur if students are permitted to participate, such as questions regarding transportation, insurance, exposure to liability, etc.

Clarification: The policy on spring practice was not changed. It has always been true that students must be enrolled in order to participate in spring practice (not only accepted in admission but also enrolled which means the enrollment contract has been signed). What was changed was the procedure to notify all of the male students in ninth grade and above in writing.

Clarification: No students participated in spring practice in 1995 and two in 1996.

Clarification: Mr. Flatt has called you at least three times in the last three to five years that he can recall concerning spring practice. He has called you numerous times in the last 15-20 years about many eligibility problems and other situations and does not recall having received a written confirmation from you concerning many of the conversations. The phone conversation without written confirmation has been sufficient up to this point.

The second issue in your letter of July 3 concerns twelve students from nine middle schools who participated in spring football practice in 1997 at Brentwood Academy. To put this in context, and hopefully to refresh your

memory, Mr. Flatt called you with a question from the father of Ray Paul Marley, a Grassland Middle School student who will be attending Brentwood Academy this fall. Mr. Marley called Mr. Flatt and asked whether his son could participate in weight lifting and spring football practice at Brentwood Academy. Mr. Flatt told Mr. Marley that if Ray Paul was enrolled he could participate in spring practice. But since enrollment contracts are not due until April 1, he did not know if lifting weights would be allowed. Mr. Flatt called you and asked you about the situation. You informed Mr. Flatt that Brentwood Academy needed a letter from Mr. Marley stating that his plans were for Ray Paul to attend Brentwood Academy for 1997-98. Mr. Flatt called Mr. Marley and told him about the conversation with you. Mr. Marley wrote a letter. A copy is enclosed. Ray Paul lifted weights and attended spring practice (spring practice occurred after April 1 and by that time he had sent in his enrollment contract).

The clarification as to what prompted us to change our procedure in notifying all new male 9th-12th grade students who were enrolled in Brentwood Academy is as follows. Mr. Flatt became concerned that, since Mr. Marley is a teacher in the Williamson County system, there would be questions as to why Brentwood Academy had allowed Ray Paul and no one else to be involved in spring practice. Mr. Flatt did not want to have to go through the hassle with Franklin saying that Brentwood Academy just allowed one person to participate, so he discussed it with Mrs. Brasher, and it was decided that the best thing for Brentwood Academy to do in order to avoid controversy would be to send information to all of our male students who were enrolled in the ninth grade or above.

3. ***The following coaches on the staff of Brentwood Academy are coaching AAU or church basketball teams this spring (1997):***

John Patton–15 and under AAU boys with five

students on the team from Brentwood Academy who will either be freshmen or sophomores in 1997-98.

Clarification: All five of the Brentwood Academy students on John Patton's AAU team were previously enrolled at Brentwood Academy for the 1996-97 school year. Also, none of the other members of his team are candidates or have been candidates for admission to Brentwood Academy.

Brad Perry–13 and under AAU boys
Robert Butler–10 and under girls
12 and under AAU boys

In addition, Mr. Butler coached a sixth grade girls team in a church league with Mr. Bart King in the fall and winter of 1996.

Clarification: Mr. Butler did not coach a sixth grade girls' team in a church league with Mr. Bart King in the fall and winter of 1996. This was reported to you by us in error. Mrs. Brasher misinterpreted the following facts and reported to you that Mr. Butler and Mr. King coached this team together.

In October, 1996 Robert Butler was informed that Brentwood Academy's varsity girls' basketball team was not invited to the Brentwood Rotary Classic. This was a surprise and created a scheduling problem for Brentwood Academy. As a result, Mr. Butler called the tournament director, and she told him to contact Bart King and Rod Freeman because they were in charge of inviting the teams. She also told Mr. Butler that Mr. Freeman was not as involved as Mr. King, so she thought he should call Mr. King.

Mr. Butler called Mr. King and they talked about the tournament. These discussions with Mr. King extended over three days, as Brentwood Academy was trying to get back in the tournament. That was the first time that Mr. Butler ever talked to Bart King.

At the request of Mr. Steve Dunn, who was one of the parents of a player on the First Presbyterian Church

sixth grade basketball team, Mr. Butler was looking for a coach for that church team. Mr. Dunn had called Mr. Butler because he knew that Mr. Butler was involved with girls youth basketball and he thought Mr. Butler could help find a coach. In looking for a coach, Mr. Butler talked to Scott Holmes, David Knox and Ron Bargatze. Mr. Dunn talked to several former players at Vanderbilt and others about coaching the church team. He also asked Mr. Bargatze. Mr. Butler was asking anyone else who had a basketball background. During their conversations about the Rotary tournament, Mr. Butler told Mr. King about the search for a basketball coach that he and Mr. Dunn were conducting. Mr. King volunteered that he coached youth teams and said he might be interested. Mr. Butler called Mr. Dunn and told him there might be someone who might be interested in helping him.

Mr. Butler never coached any team with Mr. King.

4. ***Mr. Flatt has written letters to student athletes at middle schools regarding spring practice. The information indicates this is done to students who have applied, been tested, and accepted. Information indicates that they must pay $300.00 but this is not required if a student has applied for financial aid. In addition, Mr. Flatt has called students or their parents either at the request of Mrs. Nancy Brasher, Admission Director, or on his own. The information indicates this is done if there are questions concerning eligibility, but the information also indicates calls to parents or student-athletes regarding subjects other than eligibility, such as spring practice, spring practice being cut short, "athletic" questions, etc.***

Clarification: Mr. Flatt has called no students. Mr. Flatt has called no parents on his own whose children have not been enrolled. There is no "*et cetera.*"

Phone calls Mr. Flatt has made to parents of enrolled students have had a legitimate purpose. The phone calls made concerning spring practice were motivated by his

wanting to be sure the three points in question #9 of the memo to Ronnie Carter dated June 12 were correctly interpreted by the parents. Mr. Flatt called the people who had received letters to emphasize the fact that spring practice was only an opportunity for them and certainly was not anything that Brentwood Academy was pushing. In fact, Mr. Flatt prefers that eighth graders do not come to spring practice due to the fact that some of them may be intimidated by the situation. The other phone call Mr. Flatt made to parents of three of the twelve boys in spring practice concerned the fact that he was canceling the last day of spring practice. The call was made to keep them from making an unnecessary trip to Brentwood Academy.
Mrs. Brasher has asked Mr. Flatt as Athletic Director to call families who have called her with athletic questions. In a similar manner, Mrs. Brasher requests the Academic Dean and the Spiritual Life Director to respond to parents concerning questions that involve their respective areas.

5. ***The information from Mr. Butler indicates little knowledge of the eight middle school student-athletes. He knows Mr. Patton as a fellow coach at Brentwood Academy and Mr. King through his work as chairman of the Brentwood Rotary Girls Basketball Tournament and through working with him as coach of a sixth grade girls basketball team in the fall.***

Clarification: Mr. Butler did not coach with Mr. King. This is inaccurate as stated previously.

6. ***Other information obtained in conversations with student-athletes or coaches at Neely's Bend Middle School, Cameron Middle School, Goodlettsville Middle School, and East Middle School is as follows: (1) According to a student-athlete at East Middle School, Mr. King started asking him if he wanted to go to Brentwood Academy two years ago. Also, Mr. King told him that if he went to Brentwood Academy, he would <u>probably</u> have a car when he is in the tenth grade. Mr.***

King gave a student-athlete from Cameron Middle School, as well as the student-athlete from East, the number for Brentwood Academy and told them to have their parents contact Mrs. Tate. Also according to this student-athlete, Mr. King is recruiting two student-athletes from East and one from Cameron Middle School, and someone else is in charge of recruiting a student-athlete from Neely's Bend Middle School.

First, sub points 1, 2, 3 and 5 under issue no. 6 all have to do with allegations regarding the conduct of Mr. King. Mr. King is in no way associated with Brentwood Academy. Approximately four and one-half years ago, Mr. King talked to our Business Manager about using the gym. The inquiry by Mr. King was of a routine nature and was one of dozens of requests that Brentwood Academy receives from members of the community about using the Brentwood Academy gym or practice fields. It was our understanding that Mr. King was coaching a junior pro team. It was also our understanding that Mr. King lives in the Brentwood area. No coach was aware of Mr. King's being given permission at that time to use the gym.

In response to the allegations of sub point 1 under issue no. 6, we hope that they are not true. We do not know if these allegations are true or not, and we do not know the circumstances under which these allegations were made. We do not know if these statements were made under coercion, duress or intimidation. Upon further investigation, if these statements are true, then any student who has made such a statement is not the type of person we want at Brentwood Academy. If these statements are true, we do not want that kind of student in our school because he would be coming for the wrong reasons and we would feel that he would have been enticed, without any knowledge or action on the part of Brentwood Academy, to come to our school.

Whether or not Mr. King has done or said what has been stated in the other allegations we have no way of

knowing, but we would have grave concerns if these allegations are true and certainly would have notified TSSAA had we been aware that anything of this nature was occurring. Ronnie, we certainly can see why you have such a concern regarding the allegations of no. 6. It is very alarming to think that something like this has gone on or could have gone on, but understand that Mr. King is not a representative of Brentwood Academy. He is not and has never been a member of the faculty or staff of Brentwood Academy, has never had a child attend this school, and certainly has not been asked by any member of the faculty or staff of Brentwood Academy to encourage prospective students to apply to Brentwood Academy.

Mr. Flatt has related to me some pertinent information that involves Mr. Crenshaw at East Middle School. Doug Matthews called Mr. Flatt to inform him that Mr. Crenshaw had been in his store with Jacques Curry and, perhaps not knowing that Mr. Matthews has two children who are alumni of Brentwood Academy, had made the statement to one of the salesman that Brentwood Academy was going to buy Jacques a car if he would come there. Mr. Matthews heard this comment and was concerned, and he confronted Mr. Crenshaw about it in the store. Mr. Crenshaw said that Jacques had told this to him, so Mr. Matthews called Jacques over and asked him whether or not that was true. The boy denied it. Then Mr. Crenshaw said that though it might not be true in this situation, he certainly knows that Brentwood Academy does things like that.

Talk can be harmful, and we want to do anything in our power to eliminate this kind of talk because it certainly hurts our school. So many things have been said about Brentwood Academy over the years that are not true. We certainly want to work with you in any way to find out the truth about this situation and to stop such talk if it exists.

We do want to reiterate that Mr. King does not have a relationship with Brentwood Academy, just like several

other people who use our facility. Anything purportedly done by Mr. King cannot be and should not be attributed to Brentwood Academy. He has never had any affiliation with our school. Brentwood Academy has no control over Mr. King except that, if these allegations are true, we can certainly take away his use at our gym. I assume that you or someone from your staff has interviewed Mr. King to discuss these disturbing allegations against him, but I find no mention of this in your July 3 letter. What does Mr. King say about these allegations?

(2) According to a second student-athlete at East Middle School, Mr. King has bought his relative clothes, shoes, and jewelry and has told him that all he wants him to do is attend Brentwood Academy.

With respect to sub point 2, our response is the same as our response to sub point 1.

(3) According to a third student-athlete at East Middle School, Mr. King arranged for him and another student from East to take the entrance exam at Brentwood Academy. He also picked up the other student-athlete and took him to work with him, as well as bought the other student-athlete a bracelet.

According to Mrs. Brasher, Mr. King has not arranged with her for a student to take an entrance exam. Concerning the other allegation, our response is the same as in sub point 1.

(5) According to a coach at Goodlettsville Middle School, Mr. King is recruiting his best athlete and told that particular student-athlete that he would get him a scholarship and provide transportation to Brentwood Academy.

Our response is the same as sub point 1.

(4) According to a coach at Cameron Middle School, Mr. John Patton has taken a student-athlete from Cameron to several Brentwood Academy football games.

Mr. Patton states that in the fall of 1994, he took Jermonde Davis to a Brentwood Academy football game. Jermonde and Mikie, Mr. Patton's son, are friends as are Mr. Patton and Jermonde's family. Mr. Patton was functioning as a father to his son by allowing his son's friend to engage in social activities with his son. He certainly was not trying to influence Jermonde to attend Brentwood Academy.

7. We are requesting the following information from admissions: names of all students at the following schools who have contacted Brentwood Academy or have been contacted by Brentwood Academy regarding admission, enrollment, application, etc.—Neely's Bend Middle School, Goodlettsville Middle School, Cameron Middle School, and East Middle School.

We have not contacted any prospective student first. When a prospective family calls the Admission Office requesting information about Brentwood Academy, that phone call is treated with confidentiality. For that reason we do not think it would be appropriate for us to supply that information. In addition, we do not keep a list of students contacting Brentwood Academy by schools.

8. We are requesting that Brentwood Academy submit information in writing to follow-up questions #1 and 2 and respond to follow-up in paragraph #2.

In addition we are asking the administrative staff and coaches at Brentwood Academy to review all the information and inform us of any part of it that is incorrect or any additional information that should be added to our findings. Specifically, we have received letters from Carlton Flatt and Robert Butler. There are also statements involving Coach Perry, Coach Patton, and Mr. King. Since the information from Brentwood Academy to us indicates that Mr. Butler and Mr. Flatt have had no contact with Mr. King, we are asking Brentwood Academy to respond to any parts of information involving these individuals.

Please refer to the clarification under question no. 3. As

already explained, Mr. Flatt is responsible for the facilities and comes to the school periodically to check on things. Therefore he has seen Mr. King in our gym.

We are requesting, at this time, that there be no further contact on the part of the staff of Brentwood Academy or Mr. King with the following students: Jermonde Davis, Glean Eddy, Jesse Kellogg, Jacques Curry, Jarvis Curry, Altony Williams and George King. We are also requesting there be no further contact with the following coaches: Kevin Armstrong, Donnie Crenshaw, Clay Mayes, and David Brooks.

One of the requests that you make is that "there be no further contact on the part of the staff of Brentwood Academy or Mr. King" with the students identified in paragraph 2. We have absolutely no control over Mr. King, and Brentwood Academy refuses to acknowledge that we have any responsibility to monitor the actions of Mr. King, who is not associated with our school. How can Brentwood Academy be expected to control the actions of Mr. King? We are not in a position to control him. He is not a member of our staff and is not linked to Brentwood Academy in any way whatsoever. As previously stated, the only control we have over Mr. King is to not allow him to use our gym.

Mr. Flatt talked to Mr. King about your mandate that "there be no further contact on the part of the staff of Brentwood Academy or Mr. King with the following students...." Mr. Flatt told Mr. King that Mr. Carter said to have no contact with the stated students. Mr. Flatt also told Mr. King that he (Mr. Flatt) realized that he (Mr. Flatt) had no power over him but would appreciate it if he (Mr. King) would honor Mr. Carter's wishes. Mr. King was very concerned about why this request was made. At Mr. King's request, Mr. Flatt read him the allegations in no. 6, sub points 1, 2, 3 and 5. Ronnie, this puts us in the middle of a situation that we feel is uncontrollable. Please do not hold us responsible for any actions Mr. King may take.

No staff member at Brentwood Academy is aware of

Jarvis Curry. Mrs. Brasher and I are the only staff aware of Altony Williams because she tested him and I interviewed him; he was not accepted to Brentwood Academy. Mrs. Brasher had received a phone call from George King's mom, Mrs. King, seeking information about our school. Mrs. Brasher sent an admission packet and set up an appointment at Brentwood Academy. Mrs. King did not show up, and there was no further contact by either party.

Jermonde Davis, Glean Eddy, Jesse Kellogg and Jacques Curry are students who are enrolled at Brentwood Academy. We will need to contact these members of our 1997-98 freshman class just as we will do with other members of the class concerning various aspects of school during the coming year. I presume that TSSAA's request is not intended to prohibit such contacts. If that is not the case, please let me know immediately. No one at Brentwood Academy has ever had contact with Kevin Armstrong, Donnie Crenshaw or David Brooks apart from Kevin Armstrong's calls to Mr. Flatt as discussed earlier. We have had contact with Clay Mayes since he is a graduate of Brentwood Academy. His family and mine are close friends, and Clay has been involved with various activities at the school as an alumnus. Are you intending to restrict our ability to maintain our normal contacts with Mr. Mayes, and, if so, why?

9. ***We are also asking for information regarding "Brentwood Academy and Nashville Kats Football Camp" which is being held in Clarksville and Columbia. Many of our member schools hold summer camps on their campuses as a part of their summer program. This is the first incident, to my knowledge, of a school holding summer camps under the school name at sites other than their school campus. What is the connection with the Nashville Kats? What is the purpose of the camp? Does the camp have the approval of the administration of Brentwood Academy? Any other information regarding the camp that can be provided would be appreciated.***

You have requested information concerning the football camps that were held in Clarksville and Columbia. The Nashville Kats offered to sponsor these camps, and Mr. Flatt was interested in working with these camps because he needed summer income. The purpose of these camps for the Kats is to promote football in Middle Tennessee. The Nashville Kats receive the goodwill from promoting these camps and Mr. Flatt and staff obtain a summer job.

Mr. Flatt called the coach at Columbia High School, Spring Hill High School and Columbia Academy and told them about the camps and that he was working in the camps for a summer job. Mr. Flatt expressly stated that he was not interested in using the camps as a vehicle to encourage the student-athletes at Columbia or Spring Hill to come to Brentwood Academy. He invited the three head coaches to participate on the camp staff. Mr. Flatt made the same calls to Clarksville and Clarksville Northeast.

Brentwood Academy's administration approved the camp. We believe this answers the questions raised in paragraph 9, but Mr. Flatt will be happy to respond further to any additional questions.

Finally, we are sure that you can understand the stress that this has placed on Mr. Flatt and the others at Brentwood Academy. Mr. Flatt feels very strongly that these allegations have cast him in a false light and have hurt his reputation since he has received many phone calls from fellow coaches concerning allegations the TSSAA has made. In fact, one of his fellow coaches informed him of the investigation before TSSAA officials. This is very disheartening. We are all anxious to resolve these matters as expeditiously as possible. We want to work with you and your staff at resolving any questions you may have.

We look forward to the meeting we set with you on Wednesday, July 16, at 10:00 a.m. to discuss any remaining questions you may have and any additional information you may have developed from discussions with Mr. King and the

parents of the students involved. For the sakes of the schools, the coaches and most especially the students involved in these allegations, this matter needs to be resolved promptly and correctly in light of the events as they have actually transpired. I look forward to discussing this with you.

Sincerely,

/s/ Bill Brown
Bill Brown
Headmaster

enclosures

[ATTACHMENT]

To: Brentwood Academy
From: Joe Marley
Date: 1/21/97

It is our intention for Ray Marley to attend Brentwood Academy in the 1997-98 school year. Ray has my consent to participate in a speed and strength program at Brentwood Academy.

Joe Marley

/s/ Joe Marley

[ATTACHMENT]

[BRENTWOOD LOGO]
BRENTWOOD ACADEMY

219 Granny White Pike | Brentwood, Tennessee 37027
(615) 377-3632 | fax: (615) 377-3709

Athletic Director: Carlton Flatt | Asst. Athletic Director: Buddy Alexander

April 23, 1997

Having officially enrolled at Brentwood Academy, the TSSAA allows you to participate in spring football practice. If you are not currently involved in a sport at your school, we would like to invite you to practice with your new team. Equipment will be given out April 30th at 3:30 downstairs in the locker room.

Spring practice will begin May 1, 1997 and conclude on May 14, 1997. Practice begins at 3:20 and will be finished by 4:45. Due to the inconvenience to your parents, please do not feel that you must attend every practice. However, I do feel that getting involved as soon as possible would definitely be to your advantage.

In the near future, you will receive a letter outlining our summer workout program. If you have any questions, please call me at school 373-0611 x 119, or at home 373-0475. We are certainly glad that you decided to become an *Eagle*.

Your Coach,

Carlton Flatt

JA-230

MEMBERSHIP APPLICATION
Tennessee Secondary School Athletic Association

School Name Brentwood Academy
Address 219 Granny White Pike
City, State, Zip Brentwood, TN. 37027

Check the division(s) in which you will participate:

Senior High Division ✓

Junior High Division _____

Middle School Division _____

Membership Fee $ 300.00
This membership fee includes one year subscription to TSSAA News for each school at $10.00 per subscription.

I hereby agree that Brentwood Academy High School will conduct its athletic programs for the year 1996 in accordance with the rules and decisions of the TSSAA.

/s/ William S. Brown, Jr. 11/14/96
Principal's Signature Date

Return this card no later than December 31 along with check for membership dues to:
TSSAA, 3333 Lebanon Road, Hermitage TN 37076

JA-231

MEMBERSHIP APPLICATION
Tennessee Secondary School Athletic Association

School Name Brentwood Academy
Address 219 Granny White Pike
City, State, Zip Brentwood, TN. 37027

Check the division(s) in which you will participate:

Senior High Division ✓

Junior High Division __

Middle School Division __

Membership Fee $300.00

This membership fee includes one year subscription to TSSAA News for the principal and for head coaches at $10.00 per subscription.

I hereby agree that Brentwood Academy High School will conduct its athletic programs for the year 1997 in accordance with the rules and decisions of the TSSAA.

/s/ Bill Brown, Jr. — Principal's Signature

8-12-97 — Date

Return this card no later than December 31 along with check for membership dues to: TSSAA, 3333 Lebanon Road, Hermitage TN 37076|

JA-232

TENNESSEE SECONDARY SCHOOL
ATHLETIC ASSOCIATION

[TSSAA LOGO]

CERTIFICATION OF COMPLIANCE WITH TSSAA POLICY ON RECRUITING

This form must be completed in full, bear the signatures of all appropriate personnel and be returned to the TSSAA Office with your Directory Sheet.

INSTRUCTIONS (MUST BE TYPEWRITTEN):

1. This Certification of Compliance with the TSSAA Recruiting Policy must be submitted to the TSSAA Office with your Directory Sheet.

2. Make a photocopy of the completed and signed form for school files.

3. It is essential that the form bear the signature of the principal, atheletic director, and all coaches in each varsity sport offered by the school. If coaches in a particular sports(s) have not been determined, list TBA in the appropriate blank(s) and submit a photocopy of this form with that individual(s) signature after he/she has been determined and has reviewed the TSSAA Policy on Recruiting.

Name of School: Brentwood Academy

CERTIFICATION OF COMPLIANCE (Read Carefully)

With my signature, I certify that I have read the TSSAA Handbook on Recruiting which has been adopted by the Legislative Council and ~~agree to~~ comply with the provisions of this rule in full. I also certify that I will inform all necessary school personnel, as well as all other individuals associated with this school of the provisions of

this policy and of this school's intention to abide by those provisions. I also certify that I know of no one connected or not connected with our school who is in violation of the TSSAA Recruiting Rule.

POSITION	NAME (Must Be Typewritten)	SIGNATURE
Principal	Bill Brown	/s/ Bill Brown
Football (Head Coach)	Carlton Flatt	/s/ Carlton Flatt
Boys' Basketball (Head Coach)	Walt Holman	/s/ Walt Holman
Girls' Basketball (Head Coach)	Robert Butler	/s/ Robert Butler
Baseball (Head Coach)	Buddy Alexander	/s/ Buddy Alexander
Boys' Track (Head Coach)	Charlie Harper	/s/ Charlie Harper
Girls' Track (Head Coach)	Bill Brown	/s/ Bill Brown
Boys' Cross Country (Head Coach)	Charlie Harper	/s/ Charlie Harper
Girls' Cross Country (Head Coach)	Tracy Polte	/s/ Tracy Polte
Boys' Golf (Head Coach)	Vicki Capehart	/s/ Vicki Capehart
Girls' Golf (Head Coach)	Vicki Capehart	/s/ Vicki Capehart
Boys' Tennis (Head Coach)	David Speakman	/s/ David Speakman
Girls' Tennis	Jill Holmes	/s/ Jill Holmes

(Head Coach)		
Wrestling (Head Coach)	Ray Dalton	/s/ Ray Dalton
Boys' Soccer (Head Coach)	Charlie West	/s/ Charlie West
Girls' Soccer (Head Coach)	Charlie West	/s/ Charlie West
Softball (Head Coach)	Wendell Harris	/s/ Wendell Harris
Girls' Volleyball (Head Coach)	Karen Forehand	/s/ Karen Forehand
Assistant Coaches:	Mickey Jacobs	/s/ Mickey Jacobs
	Bobby Gentry	/s/ Bobby Gentry
	Bill Evans	/s/ Bill Evans
	Ron Harris	/s/ Ron Harris
	Brad Perry	/s/ Brad Perry

TENNESSEE SECONDARY SCHOOL
ATHLETIC ASSOCIATION
[TSSAA LOGO]

CERTIFICATION OF COMPLIANCE WITH TSSAA POLICY ON RECRUITING

This form must be completed in full, bear the signatures of all appropriate personnel and be returned to the TSSAA Offiee with your Directory Sheet.

INSTRUCTIONS (MUST BE TYPEWRITTEN):

1. This Certification of Compliance with the TSSAA Recruiting Policy must be submitted to the TSSAA Office with your Directory Sheet.

2. Make a photocopy of the completed and signed form for school files.

3. It is essential that the form bear the signature of the principal, atheletic director, and all coaches in each varsity sport offered by the school. If coaches in a particular sports(s) have not been determined, list TBA in the appropriate blank(s) and submit a photocopy of this form with that individual(s) signature after he/she has been determined and has reviewed the TSSAA Policy on Recruiting.

Name of School: Brentwood Academy

CERTIFICATION OF COMPLIANCE (Read Carefully)

With my signature, I certify that I have read the TSSAA Handbook on Recruiting which has been adopted by the Legislative Council and agree to comply with the provisions of this rule in full. I also certify that I will inform all necessary school personnel, as well as all other individuals associated with this school of the provisions of

this policy and of this school's intention to abide by those provisions. I also certify that I know of no one connected or not connected with our school who is in violation of the TSSAA Recruiting Rule.

POSITION	**NAME (Must Be Typewritten)**	**SIGNATURE**
Principal	Bill Brown	/s/ Bill Brown
Football (Head Coach)	Carlton Flatt	/s/ Carlton Flatt
Boys' Basketball (Head Coach)	Robert Butler	/s/ Robert Butler
Girls' Basketball (Head Coach)	Steve Shipley	/s/ Steve Shipley
Baseball (Head Coach)	Buddy Alexander	/s/Buddy Alexander
Boys' Track (Head Coach)	Charlie Harper	/s/ Charlie Harper
Girls' Track (Head Coach)	Bill Brown	/s/ Bill Brown
Boys' Cross Country (Head Coach)	Charlie Harper	/s/ Charlie Harper
Girls' Cross Country (Head Coach)	Charlie Harper	/s/ Charlie Harper
Boys' Golf (Head Coach)	Vicki Capehart	/s/ Vicki Capehart
Girls' Golf (Head Coach)	Vicki Capehart	/s/ Vicki Capehart

Boys' Tennis (Head Coach)	David Speakman	/s/David Speakman
Girls' Tennis (Head Coach)	Jill Holmes	/s/ Jill Holmes
Wrestling (Head Coach)	Ray Dalton	/s/ Ray Dalton
Boys' Soccer (Head Coach)	Charlie West	/s/ Charlie West
Girls' Soccer (Head Coach)	Charlie West	/s/ Charlie West
Softball (Head Coach)	Wendell Harris	/s/ Wendell Harris
Girls' Volleyball (Head Coach)	Randall Wilcher	/s/ Randall Wilcher
Assistant Coaches:	Bill Evans	/s/ Bill Evans
	Ron Harris	[illegible]
	Randy Locke	/s/ Randy Locke
	John Patton	/s/ John Patton
	Jimmy Gentry	[illegible]

TENNESSEE SECONDARY SCHOOL
[TSSAA LOGO] ATHLETIC ASSOCIATION

P. O. BOX 319 • 3333 LEBANON ROAD •
HERMITAGE, TENNESSEE 37076
615/889-6740
FAX 615/869-0544

July 29, 1997

Mr. Bill Brown, Principal
Brentwood Academy
219 Granny White Pike
Brentwood, TN 37027

Dear Mr. Brown:

This is in regard to questions concerning possible violations of TSSAA Bylaws by Brentwood Academy. Members of our staff have met with members of Brentwood Academy's staff concerning a number of items. In addition, there have been written responses from both our office and Brentwood Academy concerning these areas. We have also met with four student-athletes from two different middle schools and six coaches from four different middle schools concerning contacts with student-athletes in their schools.

After reviewing all of the information, the following is a summary of the concerns and violations:

1. Concern: The practice of providing free tickets for Brentwood Academy games to coaches at other middle schools. It is of great concern that the present policy is totally at the discretion of Coach Carlton Flatt, with Coach Flatt stating that two is the usual number. This leaves too many opportunities for middle school student-

athletes to be admitted at no charge.

Violation - Article II, Section 21 (Recruiting): It has been determined that at least one specific violation in this area occurred when a coach from Neely's Bend Middle School was left three tickets, with two being used by student-athletes. The response from Brentwood Academy is that the coach was told not to bring athletes above the sixth grade. The most critical part of understanding the "recruiting rule" is Guideline #8 which states:

> Administrators and coaches must realize that they have more responsibilities than the general public to understand the purpose of high school athletics, the principles behind the TSSAA rules, etc., and to maintain a level of understanding and purpose when dealing with the general public and students.

2. Concern:. There is only one reference to seventh grade and above in the questions and answers in the Recruiting Rule (Q. 4, example 4). Example #7 in Q. 4 specifically states that students being admitted free to contests is a guide in determining whether undue influence has been used. Brentwood Academy has indicated that students below the seventh grade would be admitted free to its games.

   Violation - Article II, Section 21 (Recruiting): It has been determined that there were at least two situations where students below the seventh grade have been admitted free.

3. Concern: The concept expressed by Brentwood Academy is that students that have gone through Brentwood Academy's "enrollment process" are seen

differently than other students in terms of TSSAA rules. It is critical first to understand that "enrolled," by TSSAA rules, means a student in regular attendance at a particular school. Students can only be enrolled at one school and each of the students in question is enrolled at a middle school.

It has been defined to our staff by Brentwood Academy that "enrollment" means a student or parents having made contact to Brentwood Academy, information and an application are then sent to the student and family, the student is then tested, the student is then accepted or rejected by Brentwood Academy and notified, and, if accepted, the family then signs a contract indicating the student will attend. We were first told that a student must pay a $300.00 deposit on tuition for the following year. We were then told that a student applying for financial aid does not have to pay the $300.00 fee. We were further informed that students have gone through the process and than not attended Brentwood Academy in the fall.

It seems very apparent that this process creates many opportunities for problems. It obviously does not assure Brentwood Academy that the students will be attending. It is also obvious that a family could go through this process at any number of schools.

Going through this simple process does not open the doors for Brentwood Academy to contact or treat these students in any different manner than students who have not gone through the process.

Violation - Article II, Section 21 (Recruiting): It is very apparent from talking with students and, also, Coach Flatt that students have been contacted by Brentwood Academy about athletics, both in writing and by

telephone, prior to the time they were "enrolled" under TSSAA rules. While the information indicates it is to inform them of opportunities, all of this could easily be a part of any application process. This is explained in Question #3, and examples 3 & 4 under Question #4 in Article II, Section 21, of the Bylaws.

Concern: Of 21 rising ninth grade students who have gone through this process, 12 received a letter from Mr. Flatt and follow-up telephone calls regarding participation in spring practice. While participation in spring practice by students enrolled in another school is not a violation in itself, for it to occur in the manner it has occurred resulted in going beyond what is normal and appropriate. In the past, Brentwood Academy has allowed this when it was initiated by a parent in their contact to Brentwood Academy. This resulted in none in 1995 and two in 1996. Only one had contacted Brentwood Academy concerning this in 1997. A change occurred this year to contact all new male students, with 12 participating. The 12 came from nine schools in three different counties, some as far away as 45 minutes:

Violation - Article II, Section 21 (Recruiting): This entire process is seen as beyond what is normal and appropriate and is undue influence.

5. Concern: Information from Brentwood Academy indicates three different members of the coaching staff (Robert Butler, Brad Perry, and John Patton) coach AAU basketball teams in the spring, with those teams involving 15-and-under boys, 13-and-under boys, 12-and-under boys, and 10-and-under girls. The 15-and-under boys have five students enrolled in either the eighth or ninth grade at Brentwood Academy.

It is of great concern to TSSAA that it was expressed by

Brentwood Academy in one meeting that TSSAA needs to do something about the AAU problem and at the same time has three members of their coaching staff involved with AAU teams. While this is not a violation, it is of deep concern that the coaches involved are with different age groups, starting with 12 and under. There is obviously the potential for undue influence.

Violation -- Article III, Section 13 (Sports Calendar): Brentwood Academy is in violation of the practice rule since a member of the staff is involved with a team (15-and-under boys) with five students presently enrolled in the eighth or ninth grade at Brentwood Academy. Two members of the AAU team were members of the Brentwood Academy high school program in 1996-97 and all five could be members in 1997-98. Schools are limited to 10 practices and two scrimmages in the spring involving a representative of the coaching staff and one or more members of the basketball program.

6. Concern: In talking with four student-athletes from two different middle schools and six coaches from four different middle schools concerning contacts with student-athletes in their schools, it was found that these contacts have come from persons connected with and persons not connected with Brentwood Academy. There is a recurring theme through all the interviews with students and coaches. Students are being singled out by someone based on athletic abifity. It would appear to be of major concern to Brentwood Academy that the only two students from Neely's Bend Middle School to be contacted, approved, and accepted are two top athletes. Neely's Bend is 45 minutes away. The only student to go through the process from East Middle School is also an outstanding athlete. This should cause great concern on the part of Brentwood Academy. The only student from Cameron to go through the process and be accepted is

also an outstanding athlete. Three of the four would be among the best athletes in the Metropolitan Public School System at the middle school level.

Violation: This is a violation of the Recruiting Rule. It is obvious that over and over we see persons exceeding what is normal and appropriate, as well as treating athletes and prospective athletes differently than students who are not athletes. At some point, examples 1, 3, 4, and 7 under Question 4 have all been violated.

After reviewing the concerns and violations, the following action is being taken:

1. For violation of the practice rule, Brentwood Academy will not be permitted any off-season practice in football or basketball for two years.

2. For violations of the recruiting rule, Brentwood Academy is being placed on probation for two years and fined $3,000.00. In addition, no athletic team will be permitted the privilege of entering the tournament series for 1997-98. The football program and boys' basketball program will also be denied the privilege of entering the playoffs and tournament series in 1998-99.

   Any further violations of TSSAA rules and regulations during the probationary period will result in further disciplinary action.

3. The two students at Neely's Bend, the student at Cameron, and the student at East Middle School will be ineligible to participate in athletics at Brentwood Academy at any level.

I know that you will take the necessary steps, as Headmaster of Brentwood Academy, to see that a violation

of this type does not occur again. High school athletics is a part of the total educational program. We cannot justify the existence of high school athletics if situations such as this are allowed to occur. Participation in high school athletics is a privilege and with that privilege goes responsibility. The responsibilities must be met by everyone involved with the Brentwood Academy athletic program.

If you have any questions concerning this, please feel free to contact me.

Sincerely,

Ronnie Carter
Executive Director

RC:wmb

cc: The Tennessean (to be mailed August 1, 1997)
Nashville Banner (to be mailed August 1, 1997)
Brentwood Journal (to be mailed August 1, 1997)
The Franklin Review-Appeal

Transcript of Proceedings
Taken August 13, 1997
Before te TSSAA Board of Control

[4]

(Whereupon, the following proceedings were had to wit:)

MR. CARTER: Bill, welcome. This is a hearing requested by Brentwood Academy as a result of the disciplinary action that was outlined in our letter of July 29th to Mr. Brown, Headmaster of Brentwood Academy. Article Six of our constitution states any school charged with violating TSSAA regulations shall be notified of such charges by the executive director. If a hearing is desired by the school involved, the executive director must be notified immediately in writing, which has been done. Provisions will be made for such a hearing and school so notified. Hearings are conducted by the executive director in the presence of two or more members of the TSSAA board of control to represent the grand division of the state in which the school is located and who shall act in an advisory capacity.

I will stop here for a minute. This is Morris -- Bill, I think you and Carlton probably know everybody. This is Morris Rogers from Huntland; Mike Hammons from Overton, Nashville Overton; Micky Dunn from Lawrence County. They are the three board of control members from the Middle Tennessee grand division.

After testimony has been heard, the executive director shall meet in executive session with the members **[5]** of the board of control who were present at the hearing. After discussing with the board members the evidence and possible penalties, the executive director shall decide what penalty, if any, is to be placed against the school. Obviously, through our process, the school can request an appeal to the full board after that.

This is not a court of law. It's a meeting of school

people dealing with a school problem. We're here to obtain any information that Brentwood Academy wishes to give to us today in addition to what has already been exchanged and in addition to what we have. The purpose is to provide you, Mr. Brown, the opportunity to present any additional information to us regarding either: One, the facts; two, the rules in question; or three, the penalty.

After hearing all of the testimony, after meeting with the board and their advisement, then I will notify Brentwood Academy in writing of the decision. If it's such that there can be notification today and you want me to call you tonight at home or something like that, you can see Wanda afterwards and make sure that I've got your telephone number at home, and I'll call you. At that time, also, after I have notified you, as head of Brentwood Academy, I will also notify the press, but we will not do that until after everything has been [6] determined between you and I in terms of the action today.

Any questions about the hearing, the process we're in? Bill, she's yours. I will turn it over to you.

* * *

[11

MR. NEBEL: [12] * * *Now, there's been a lot of discussion in the papers about sworn statements that were taken from witnesses. I want to tell you why we did that. When these allegations came out against Brentwood Academy, they went to the very core, the very heart of that institution and to the members who helped build that institution; Bill Brown, Carlton Flatt and the others. And when they asked me to get involved, they gave me one overriding instruction - we just want to know what the truth is, that's all we want to know, just get to the [13] truth.

So we went out and started to interview some of the people that we thought were involved in this process. In

particular, we talked to the families, because the very definition of undue influence is we want to find out what influenced these families to come and be a part of Brentwood Academy. And you will get a chance to hear them today, because we want to give you a chance to ask any questions that you've got yourselves.

We also talked to other people who we heard who were touched by this investigation, and we tried to get sworn statements from them, too.

The bottom line is this: If Brentwood Academy has done something wrong, we want to know it. The board of trust has established institutional control. They have given a mandate to Bill Brown to make sure that he does what is expected of him in all areas of school life, including athletics. They've given a mandate to Carlton Flatt to make sure that he does what he is supposed to do, and that includes abide by TSSAA regulations.

And what we hope to do today is to show you what our investigation has uncovered. We hope that you will see that we've got some facts that you might not have been aware of. We think that the decision that was rendered in July of this year is really the result of a **[14]** misunderstanding of the facts, a misinterpretation.

So one of the grounds of this appeal is we think that you all have misinterpreted -- when I say you all, I am talking about the TSSAA staff -- has misinterpreted the facts in this case.

The second grounds for the appeal is that we think that the letter imposing the sanctions has misinterpreted TSSAA regulations, especially in light of an interpretation that we were given by Mr. Carter concerning those recruiting regulations in 1993. And we are going to introduce a letter and some testimony about what the school's understanding of those regulations were.

And we will show you that those regulations were incorporated into a policy and procedure manual that the school lived by. I mean, they followed this. And they

thought they were following the rule, and, more importantly, the spirit of TSSAA rules.

Now, I know there's been a lot of talk out there because I hear it all the time. You know, Brentwood Academy wins. They must cheat. They must be recruiting. I hope we can get back past that emotional knee-jerk reaction and take a look at the facts in this case and decide this case based on the truth. Because the truth in this case is Brentwood Academy has not done **[15]** anything wrong. And if we have, we want to know who's done it, because we will take appropriate action. If Carlton Flatt is responsible for violating TSSAA regulations, we want to know it. And he's told me this. If he has violated the school's mandate, he wants to know it, because he wants to know whether he can continue to serve in the position of A.D. And if one of the coaches at Brentwood Academy has violated that mandate, then we want to know it, because we want to take appropriate disciplinary action.

The third grounds for our appeal is that the sanctions are too severe. These cases need to be looked at individually. The sanctions are especially too severe with respect to the four young men who have been declared ineligible. When you take a look at the facts of these cases individually, you will see that there is no reasonable basis to declare these young men ineligible at Brentwood Academy.

If somebody has done something wrong, let's tailor the punishment to fit the crime. If somebody has done something wrong, it's not these young men. If somebody has done something wrong, tell us who it is. We'll see that they're punished. You won't have to ask us to punish them. We'll take steps as we have in the past. Whenever we have found people at Brentwood Academy **[16]** who violated rules in the past, we self-reported, and we've taken steps to punish people.

* * *

* * *

MR. NEBEL: Okay. The investigative file will be Exhibit No. 1. We've got Bart King's affidavit which we obtained from an attorney by the name of Richard Braun. This hasn't been marked. Let's make this Exhibit 13. We've got these individual sworn statements, and I'll just read them into the record here. I'm not sure we need to mark as an exhibit. There is one from Jacques Curry; one from Tracy Bell who is his aunt; one **[193]** from Jesse Kellogg; one from Mrs. Kellogg. The reason I am adding these is because there are details in these that we didn't cover on the stand. Mr. Kellogg. Of course, the Kelloggs didn't testify. Jermonde Cosby -- or actually, it's Jermonde Davis. It's misprinted here. His name is spelled Cosby on this. It's Jermonde Davis. Kathy Cosby; Otis Cosby, M.D.; Courtney Hale. This is a sworn statement from the other person who went with Coach Armstrong and Glean Davis (sic) and Jesse Kellogg to the game. This is a fellow who is now playing -- he is a freshman football player, I believe, at Hunter's Lane. And Courtney Hale has sworn that he saw both Glean Eddy and Jesse Kellogg pay for their own tickets.

* * *

[195]

* * *

So number one, factually, we think the overwhelming evidence is that there has been no violation. You know, we've asked who, and I understand that your response is we are not going to get any more information today on that. We've done the very best investigation we can to determine.

First of all, there is no intentional violation of the rules, and I understand you to say even if there has been no intent, we could violate the rules. But we've demonstrated there has been no violation of the rules, period. Jesse Kellogg and Glean Eddy did not go to that game for free. They bought their own tickets. We've got two sworn statements to that effect. In fact, we've got the statements from Mr. Kellogg and Mrs. Kellogg as well.

Now, I know that in light of the public school response, that the hard thing for you all to do is to take a look at this situation and to reverse the earlier decision. I understand that. But you need to understand that Brentwood Academy's integrity and the reputation has been attacked and has been smeared. It's even been smeared nationally. I mean, Sports Illustrated had a little blurb in the Score Card section of the magazine that painted Brentwood Academy and the coaches there as cheaters. And that's just not true. And it's made these young man look like they're willing to sell themselves to the highest bidder. And frankly, there has been no reason given to these parents that would justify why their children can't play at the school of their choice.

One of the disturbing things, as I have taken a look at this and I have talked to people about this is, and I say this with no offense intended to the public school educators. I mean, I went to a public school myself. I know that the public schools serve a valuable purpose and you all do a great job of what you're doing; but there seems to be a perception of ownership, ownership of these young men. I have heard the statements on numerous occasions that Brentwood Academy is winning these state titles with our boys. These are not anybody's boys. These are young men who have the right to choice to go to any school they want to. And you may not agree with the decision of these young men. You may not agree with the reasoning of their parents, but they've got the right to choose what they think is the best thing for their future.

And if you get away from that, if you get away from the concept that Brentwood Academy is taking our boys and winning championships with them, then I think a lot of this is resolved.

Brentwood Academy has done its part. They've been sensitive to the criticism that has been leveled publicly. They have been sensitive to the comments that you have made, Mr. Carter, over the years about walking too close to the line. And that's why they have intentionally embarked on a program to try to pull back. There is no institutional culture out there to try to win state championships. If you take a look at the policy manual that the trustees of that school has approved, you won't see a single word in there about state titles.

The fact of the matter is, Harvard gets a lot of smart people. Why? People are attracted to Harvard. Brentwood Academy does get more than its fair share of athletes, just like Harvard gets more than its fair share of scholars. But why? It's because people with athletic ability and who are interested in the triangle philosophy, including the spiritual side and the academic side, are attracted. There is nothing wrong with that. There is nothing illegal with that. That's why these young people have decided to go to Brentwood Academy. They have been attracted. They have not been influenced.

If the words unduly influenced are to have any meaning at-all – in fact, if the spirit of the TSSAA rules and regulations are to have any meaning at all, then the only fair decision is to allow these four young men to continue their careers where they want to and to drop this punishment against Brentwood Academy.

* * *

TSSAA HEARING
AUGUST 13, 1997

EXHIBIT LIST

1. TSSAA's file on Brentwood Academy
   - A. August 8, 1997, letter from Brentwood Academy to Ronnie Carter
   - B. July 29, 1997, letter from Ronnie Carter to Bill Brown
   - C. July 18, 1997, letter from Richard L. Colbert to Richard J. Braun
   - D. Carlton Flatt's statement
   - E. Students entering ninth grade
   - F. May 30, 1997, memo to Bill Brown from Ronnie Carter
   - G. July 3, 1997, letter to Bill Brown from Ronnie Carter
   - H. July 15, 1997, letter to Ronnie Carter from Bill Brown
   - I. Statements of Jaques Curry, Jaruis Curry, Altony Williams, Clay Mays, and David Brooks
2. Mike Peek's letter of February 24, 1993
3. Liz Tate's memo of April 19, 1993
4. Liz Tate's notes of conversation with Ronnie Carter
5. Liz Tate's Affidavit
6. TSSAA Rules
   - A. Section 21 (Recruiting Rule)
   - B. Question 1
   - C. Question 3
   - D. Question 4, No. 3
   - E. Question 4, No. 4
7. Sworn Statement of Jesse W. Kellogg taken August 1, 1997
8. Sworn Statement of Jermonde Q. Davis (Cosby) taken August 2, 1997

9. Sworn Statement of Jacques D. Curry taken August 1, 1997
10. Sworn Statement of William Glean Eddy, Jr. taken August 4, 1997
11. Brentwood Academy Trustee/Faculty Manual
12. Brentwood Academy Handbook
13. Affidavit of Bart King
14. Sworn Statement of Mrs. Kellog taken August 1, 1997
15. Sworn Statement of Mr. Kellog taken August 1, 1997
16. Sworn Statement of Kathy Cosby taken August 2, 1997
17. Sworn Statement of Otis Cosby, M.D. taken August 2, 1997
18. Sworn Statement of Ms. Marshall taken August 4, 1997
19. Sworn Statement of Tracey Bell taken August 1, 1997
20. Sworn Statement of Courtney Hale taken August 11, 1997
21. Enrollment Contract of Jesse W. Kellogg
22. Student Parent Agreement of Jesse Kellogg
23. Enrollment Contract of Jermonde Q. Davis
24. Student Parent Agreement of Jermonde Q. Davis
25. Enrollment Contract of Jacques D. Curry
26. Student Parent Agreement of Jacques D. Curry
27. Enrollment Contract of William Glean Eddy, Jr.
28. Student Parent Agreement of William Glean Eddy, Jr.

TENNESSEE SECONDARY SCHOOL
[TSSAA LOGO] ATHLETIC ASSOCIATION

P. O. BOX 319 • 3333 LEBANON ROAD •
HERMITAGE, TENNESSEE 37076
615/889-6740
FAX 615/889-0544

August 14, 1997

Mr. Bill Brown, Headmaster
Brentwood Academy
219 Granny White Pike
Brentwood, TN 37027

Dear Bill:

This is in regard to the hearing that was held at the Municipal Building in Fayetteville on August 13, 1997 at 4:00 p.m. at the request of the administration of Brentwood Academy concerning disciplinary action as outlined in my letter to you of July 29, 1997.

I would first commend you and representatives of Brentwood Academy who appeared in regard to this situation to provide additional information to our staff and the three members of the Board of Control who were also present.

It is difficult to summarize all of the information that was presented by Brentwood Academy. That information was reviewed by our staff and the three members of the Board of Control in a hearing that lasted four and one-half hours with an additional three-hour discussion period. In addition, we have reviewed all information previously submitted by Brentwood Academy.

After reviewing all of the information and the previously imposed penalties, the following disciplinary action is being taken:

1. In regard to the eligibility of the student-athletes:

A. Jermonde Davis – The student will be eligible to participate at all levels; provided he meets all other eligibility requirements.

B. Jaques Curry, Jesse Kellogg, and Glean Eddy – These students will be ineligible to participate in athletics at Brentwood Academy at the varsity level. They will be eligible to participate at the junior varsity level, provided they meet the age, semester, academic, and repeating rules. Participation at the junior varsity level will give these student-athletes an opportunity to be enriched by the total concept of the mission statement of the school, as related by Brentwood Academy representatives.

The students are ineligible as a result of Article II, Section 21, Question #2, of the TSSAA Bylaws which specifically state that violations of the Recruiting Rule shall cause the student to be ineligible at the school in violation, and a penalty shall be placed against the school.

2. For violations of the Recruiting Rule, Brentwood Academy is being placed on probation for four years and in addition, the football program and boys basketball program will be denied the privilege of entering the football playoffs and boys basketball tournament series in 1997-98 and 1998-99. All other sports will be permitted to enter the tournament series in the 1997-98 school year, provided there are no further violations. If there are any further violations during the period of probation, we will have no choice but to take further disciplinary action.

3. All programs participating in TSSAA tournament

series during the 1997-98 school year will share in no tournament revenues with member schools nor will they receive any expense allotments from state tournament series. Also, neither the football nor boys basketball program shall receive any tournament revenues or expense allotments during the 1999-2000 school year.

4. For violation of the Practice Rule, Brentwood Academy will not be permitted any off-season practice in football or basketball for two years.

5. The greatest concerns on the part of our staff are in regard to the lack of administrative control in many areas of the program. There is no suggestion of an intent to violate rules. There are, however, procedural areas that must be improved.

As a result, Mr. Bill Brown, Headmaster of Brentwood Academy, and Mr. Bill Youree, Chairman of the Athletics Committee on the Board of Trust, will meet with the Executive Director to review all policies and procedures in regard to the athletic program. It will then be the responsibility of Mr. Brown and Mr. Youree to develop an administrative control plan that will move the program forward and help to solve the problems that have occurred.

In reviewing the violations, they are summarized as follows:

1. Student-athletes have been admitted free of charge to athletic contests. Again, the question is not in regard to the policy, but in regard to the procedure that is used by Brentwood Academy. Tickets have been made available to uncontrolled individuals. Coach Carlton Flatt indicated that the pass gate was eliminated because they felt there was potential for abuse. Tickets being left for individuals in the manner in which Brentwood

Academy has done has the possibility for abuse as well.

2. Contact with the student-athletes by Brentwood Academy while they are enrolled at other schools. Much time has been spent on the definition of "enrolled" as set forth in the TSSAA Bylaws as opposed to the definition used by Brentwood Academy. The statement has been made that Brentwood Academy cannot operate under the definition of "enrolled" as set forth in the TSSAA Bylaws. In simple terms, Brentwood Academy, as a member school, must either find a way to operate under the definition as set forth in the TSSAA Bylaws, as do other member schools, change the definition as set forth in the Bylaws through the legislative process, or choose to no longer be a member of the organization.

It is very apparent that both public schools and independent schools can operate under that definition and still accomplish any goals they have in submitting information to students and/or families. Information regarding beginning of practice, physical forms, team meetings, etc. can be made a part of the application process, can be part of the information sent with the contract when students have gone through all other phases of the Brentwood Academy registration process, or can be advertised in local papers in the same manner as many schools do in regard to the beginning of practice, physical examinations, team meetings, etc. When student-athletes or their parents contact the school, it is obviously permissible for proper representatives to answer any questions in that meeting or provide information. The violations that have occurred in this particular situation are the initiation of contact a second time in writing regarding spring practice with the initiation of a follow-up telephone call by Coach Flatt to the students and/or families. Again, we recognize that

there was no intent to violate the rules by Coach Flatt but violations nonetheless occurred.

3. In presenting the information, a great deal of the explanation by Brentwood Academy involves recollection of telephone calls and a 1993 letter purportedly summarizing a meeting with representatives of Brentwood Academy and the Executive Director regarding TSSAA rules. It is very apparent to all of us, I would hope, that many problems can result by trying to remember telephone calls, interpretations of interpretations, etc. It would be our hope that out of this situation, Brentwood Academy will recognize the need to go back to the questions and answers in the TSSAA Handbook regarding recruiting and the guidelines for understanding the recruiting rule. We all recognize that questions will arise, but the questions in the handbook and the guidelines are the first source for answers. It would be our hope that all of this will be part of the beginning of the meeting with Mr. Brown, Mr. Youree, and the Executive Director.

If you have any questions regarding this, please feel free to contact me.

Sincerely,

/s/ Ronnie Carter
Ronnie Carter
Executive Director

RC:wmb

JA-259

Transcript of Proceedings

Taken Saturday, August 23, 1997

Before the TSSAA Board of Control

BOARD MEMBERS PRESENT:

MIKE REED	MIKE HAMMOND
HARRY DURHAM	JOHN DIXON
SAM MILES	LYNN BROWN
MICKEY DUNN	FRED KESSLER
	MORRIS ROGERS

ON BEHALF OF BENTWOOD ACADEMY:

G. THOMAS NEBEL, ESQUIRE
501 Union Street, Suite 504
Nashville, Tennessee 37219

Prepared by:
Carole Kimmel-Briggs, CSR
Briggs & Associates
501 Union Street, Suite 502
Nashville, Tennessee 37219

TABLE OF CONTENTS

Witness	Page
MARY ELIZABETH MARSHALL	
Examination by Mr. Nebel	41
TROY KELLOGG	
Examination by Mr. Nebel	55
JACQU-ES CURRY	
Examination by Mr. Nebel	73

LIST OF EXHIBITS

Number	Description	Page
1	Investigative file	12
2	Letter dated 2/24/93 from Michael Peek to Ronnie Carter	12
3	Memo dated 4/19/93 from Liz Tate to Bill Brown	12
4	Page 2 of letter dated 2/2/93 from Michael Peek to Ronnie Carter	12
5	Affidavit of Liz Tate	12
6	Recruiting rules	12
7	Sworn statement of Jesse Kellogg	12
8	Sworn statement of Jermonde Davis	12
9	Sworn statement of Jacqu-es Curry	12
10	Sworn statement of Glean Eddy, Jr.	12

LIST OF EXHIBITS CONTINUED

11	Brentwood Academy Trustee-Faculty Policy Manual, 1996 - 1997	12
12	Brentwood Academy Student-Parent Handbook, 1996 - 1997	12
13	Affidavit of Bart King	12
14	Sworn statement of Mrs. Kellogg	12
15	Sworn statement of Mr. Kellogg	12
16	Sworn statement of Kathy Cosby	12
17	Sworn statement of Otis Cosby, M.D.	12
18	Sworn statement of Mary Elizabeth Marshall	12
19	Sworn statement of Tracy Bell	12
20	Sworn statement of Courtney Hale	12
21	Brentwood Academy enrollment contract Re: Jesse Kellogg	12
22	Brentwood Academy student/parent agreement Re: Jesse Kellogg	12
23	Brentwood Academy enrollment contract Re: Jermonde Davis	12
24	Brentwood Academy student/parent agreement Re: Jermondé Davis	12
25	Brentwood Academy enrollment contract Re: Jacqu-es Curry	12

26 Brentwood Academy student/parent agreement Re: Jacqu-es Curry 12

27 Brentwood Academy enrollment contract Re: Glean Eddy, Jr. 12

28 Brentwood Academy student/parent agreement Re: Glean Eddy, Jr. 12

29 Transcript of August 13th, 1997 hearing 29

30 Enrollment contract 21

31 Transcript from East Middle School for Jacqu-es Curry 75

[4]

(Whereupon, the following hearing was transcribed as requested.)

MR. REED: This is a hearing requested by Brentwood Academy as a result of disciplinary action outlined in the letter to Mr. Brown from Ronnie Carter on August the 14th. If the board members will turn to Article 6 of the TSSAA Constitution on page 5 regarding hearings. Section 1, this pretty much states that the schools are entitled to a hearing. If you look at Section 2, the hearing shall be conducted by the executive director in the presence of two or more members of the TSSAA Board of Control who represent the grand division of the state in which the school is located and who shall act in an advisory capacity.

After the testimony has been heard, the executive director shall meet in executive session with members of the board of control present at the hearing. After discussing with the board members the evidence and possible penalties, the executive director shall decide what penalties,

if any, to be placed against the school. Section 3, any decision of the executive director may be appealed to the board of control.

The previous hearing was held at Fayetteville on August 13th before three middle school -- excuse me – [5] three Middle Tennessee Board of Control members who make up the Second Athletic District. Brentwood Academy is now appealing the executive director's decision before the entire board of control.

It should be understood that this board can uphold the executive director's penalty, it can increase the penalty or it can reduce the penalty.

The format we will be following, this is not a court of law. It's an appeal before a board of school people dealing with a school problem. The board wants to hear the important parts of this appeal. The members of the board may have questions as we move along. This hearing will end at promptly 3:30 p.m. The board will do the same as it did in the other hearing. The board will then go into executive session. A decision will be made, and Mr. Brown will be notified of the board's decision as soon as possible.

One thing we need to note. We all have read the newspapers. We read that new allegations have surfaced against Brentwood Academy. What was in the newspaper yesterday and today is not a part of this hearing. This hearing only involves the penalties described in the August 14th letter to Mr. Brown from Ronnie Carter.

With that, Mr. Brown, I will say that all [6] members of the board have the letters of correspondence between the executive director and Brentwood Academy. The three Middle Tennessee members are probably a little bit more up to date. The other six have read everything that has been involved.

We are here to hear what you have to say. Again, I want to stress to you this is not a court of law. We want you to feel free to tell us any new information or anything that you have concerning the case. We will listen. I am going to

turn it over to Mr. Brown, the headmaster of Brentwood Academy.

* * *

[10]

* * *

Now, the question is whether these three families that are the subject of the letter of August the 14th, 1997 and Brentwood Academy are guilty of recruiting violations, whether these three families were wrongfully recruited by Brentwood Academy. And we've decided the best thing we can do -- first of all, we don't want to take your time and repeat everything that went into that four-and-a-half-hour hearing earlier. So what we want to do is, first of all, make the transcript available from that hearing and also the exhibits. And then we have taken the liberty of condensing the four-and-a-half hours of video tape into a 38-minute video tape summary from that hearing. The 38 minutes -- we've worked pretty hard at this -- we think capture the high points of our presentation at the last hearing.

I would hope that it doesn't take the full two-and-a-half hours to make our presentation. We're going to do the best that we can. Certainly, we will live within that two-and-a-half-hour limit, but if you will bear with us and allow us to present that 38-minute video, then I think that will help expedite the process and we won't have to repeat everything that we did down in Fayetteville. Mr. Reed, is that acceptable with you

* **

[73]

* **

JACQU-ES CURRY,
was examined and stated as follows:

EXAMINATION BY MR. NEBEL:

Q. Jacqu-es, you're going to have to speak up because these gentlemen and ladies need to hear what you have to say. Would you state your full name.

A. Jacqu-es Curry.

* * *

[76]

* * *

Q. Now, there's been some discussion in the newspaper and otherwise about a gentleman by the name of Bart King. Would you please tell this board of control about your relationship with Bart King.

A. He is my AAU coach.

Q. And as an AAU coach, have you developed a special relationship with him?

A. Yes, sir, we're friends.

Q. Friends?

A. Yes.

Q. Have you sometimes referred to him as your dad?

A. Yes, sir.

Q. Why?

A. Because he has been there for me. When my mother died and my grandmother died, he stayed by me.

Q. Again, I want to make sure that you hear that. He says because he's been there for him. His mother died, and his grandmother died, and he's been there to help him. Now, has Mr. Bart King ever promised you a car or anything else if you would apply and attend Brentwood Academy?

A. No, sir.

Q. What has he told you about where he wants you to go to school?[77]

A. He doesn't care where I went.

Q. He doesn't care?

A. No.

Q. Have you talked to Mr. King about a number of schools that you might attend?

A. He had talked to me about a number of schools.

* * *

[80]

* * *

MR. NEBEL: Does the board have any questions?

MR. CARTER: Jacqu-es, I don't have any questions for you about Brentwood. You ran through a string of schools there that you and Mr. King talked about a few minutes ago. You said you all talked about Antioch, Stratford and Glencliff and just a bunch of them. Your understanding or when you all were talking about all of those schools, how -- now, I don't mean to ask you about transportation, but how were you going to [81] go to all of those schools? Did you just think that you could go to any of them?

THE WITNESS: No.

MR. CARTER: Help me with the discussion with Mr. King. In other words, why were you all discussing all of those others?

THE WITNESS: Because I was looking for a school to go to. You all said I couldn't play basketball. So I wanted to find another school.

MR. CARTER: Stay with that group. Do you know where you are zoned to go to school?

THE WITNESS: Yeah, Maplewood.

MR. CARTER: How were you going to go, in your mind or in yours and Mr. King's discussion, to Antioch, Stratford, Glencliff or any of those others?

THE WITNESS: I ain't for sure. But, like, it wasn't me going to the schools and talking to the headmaster or nothing. We was just looking at the schools. But at the time -- like, this happened in the last two or three years.

MR. CARTER: Right, but your understanding or your knowledge, you feel that you could just go to Antioch, Stratford, Glencliff, any of them?

THE WITNESS: My daddy, he live in the zone of Antioch and Overton.

* * *

[90]

* * *

MR. NEBEL: Any other questions? That's going to be it for our proof. If I could make just a few concluding remarks.

By the way, we have Bart King here to answer **[91]** any questions. And it was our intention to put him on, but I don't know if you all are interested in extending for five minutes to hear from Bart King or not. He's here if you want him.

MR. CARTER: No.

MR. NEBEL: No. All right. I'm going to take off my lawyer hat for a minute, and I'm going to ask you all to just talk person to person, which is what I want to do. Because I have a real strong feeling that what is going on here is not in anybody's best interest. You know -- and by that I mean, we're not here to talk about what was in yesterday's paper. But the fact --

the things like the allegations that appeared in yesterday's paper shows that this thing is escalating.

* **

TENNESSEE SECONDARY SCHOOL
[TSSAA LOGO] ATHLETIC ASSOCIATION
P.O. BOX 319
3333 LEBANON ROAD
HERMITAGE, TENNESSEE 37076
615/889-6740
FAX 615/889-0544

August 23, 1997

Mr. Bill Brown, Headmaster
Brentwood Academy
219 Granny White Pike
Brentwood, TN 37027

Dear Bill:

This letter is in response to your appeal before the Board of Control at the Sheraton Music City on Aug. 23, 1997.

First, on behalf of the entire Board I commend you and those who appeared on behalf of your school as they delivered information to us. Our Board took time to thoroughly review all the information that was presented today and that had been previously submitted to the state office.

After reviewing and having a detailed discussion on all of the information, the Board's determination is that the following violations of TSSAA regulations occurred:

1. Student-athletes have been admitted free of charge to athletic contests.

2. Contact with student-athletes, initiated by Brentwood Academy, while those students were enrolled at other

schools.

3. Brentwood Academy coaches conducting impermissible off-season practice with Brentwood Academy student-athletes.

The details of each of the foregoing violations have been described in previous correspondence from TSSAA Executive Director Ronnie Carter. In order to communicate the decision of the Board of Control to you as soon as possible, I will not take the time to reiterate the factual details of the foregoing violations.

The Board of Control has determined that the appropriate penalty for the foregoing violations are as follows:

1. The entire athletic program of Brentwood Academy will be on probation for four years. If there are further violations during the probationary period, TSSAA will have no choice but to take further disciplinary action.

2. Brentwood Academy's football and boys' basketball programs are suspended from the TSSAA playoff series for the 1997-98 and 1998-99 school years.

3. Brentwood Academy is fined $3,000 for the above violations.

4. The Brentwood Academy football and boys' basketball programs will not be permitted to engage in off-season practice in the 1997-98 and 1998-99 school years.

5. Appropriate administrative officials of Brentwood Academy will meet with the TSSAA Executive Director to develop an administrative control plan to

help guard against future problems like those which precipitated this action.

The portion of the previous penalty pertaining to tournament series revenue has been removed. In addition, the Board of Control has decided that no student-athletes should be declared ineligible based on the foregoing violations provided they meet all other eligibility requirements.

Notwithstanding the modifications of the previous penalties by the Board of Control, the foregoing violations are serious. While there is no indication of a deliberate intent to violate TSSAA rules by Brentwood Academy officials, the Board of Control concurs with the Executive Director's concern about a lack of appropriate administrative control in various aspects of the school's athletic program. These concerns will have to be addressed in the administrative control plan to be developed.

Sincerely,

Mike Reed
President, TSSAA Board of Control

MR:wmb

cc: Ronnie Carter

TENNESSEE SECONDARY SCHOOL ATHLETIC ASSOCIATION

* * * *

EX OFFICIO MEMBERS OF BOARD OF CONTROL AND LEGISLATIVE COUNCIL

State Board of Education	Gary Nixon/J.V. Sailor
State Department of Education	Jim Swain/Jane Walters
TN School Boards Association	George Nerren/ Patrick Smith
TN Organization of School Superintendents	Ernestine McWherter
TN Athletic Coaches Association	Jim Cartwright
TN Association of Independent Schools	Barbara Dausch
TN High School Athletic Administrators Association	Scott Brunette

* * * *

Last Modified February 10, 1998

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BRENTWOOD ACADEMY, Plaintiff, v. TENNESSEE SECONDARY SCHOOLS ATHLETIC ASSOCIATION and RONNIE CARTER, Executive Director and Individually, Defendants.	)	NO: 3-97- 249 JUDGE CAMPBELL MAG. JUDGE HAYNES

[FILED]
[JUNE 1, 1998]
[U.S. DISTRICT COURT]

COMBINED STIPULATIONS

In accordance with Case Management Order No. 1, Plaintiff Brentwood Academy and Defendants Tennessee Secondary Schools Athletic Association and Ronnie Carter submit these joint stipulations of fact designed to reduce discovery.

For purposes of this lawsuit and for no other purposes, the parties stipulate that the following facts are true:

I. Jurisdiction and Venue

1. This Court has personal jurisdiction over the parties and subject matter jurisdiction of the claims in this lawsuit.

2. Venue is proper in this Court.

II. Parties

A. Plaintiff Brentwood Academy

* * *

8. Although Brentwood Academy has had success in many sports, its achievements in football have received the most public attention. The football team, under Head Coach and Athletic Director Carlton Flatt, has won nine football championships and finished second six times since 1974.

9. Brentwood Academy is a member of the TSSAA, and the school's interscholastic athletic teams regularly participate in athletic contests regulated by the TSSAA.

B. TSSAA and Carter

10. Defendant TSSAA is a non-profit corporation organized and existing under the laws of the State of Tennessee, with its principal place of business in Hermitage, Davidson County, Tennessee.

11. Defendant Ronnie Carter is the Executive Director of the TSSAA and, at all times relevant to this action involving Brentwood Academy, acted as an employee and agent of the TSSAA and within the scope of his authority as an employee and agent.

12. The TSSAA is a voluntary association of public, independent and parochial secondary schools from across the state of Tennessee. It is composed of 290 public schools and 55 independent and parochial schools. Public high schools compose 84% of the voting membership of the TSSAA with 290 public schools participating in the TSSAA out of a total of 345 schools. Independent and parochial schools compose 16% of the voting membership of the TSSAA (55 independent and parochial schools out of a total of 345 schools). The purpose of the TSSAA is to stimulate and regulate interscholastic athletic competition among its member schools.

* * *

D. The Illegal Recruiting Controversy

* * *

35. Allegations that Glean Eddy, Jesse Kellogg, Jermonde Davis and Jacques Curry were recruited in violation of the Recruiting Rule were made in the first instance by certain public high school coaches.

36. These allegations of recruiting were subsequently communicated to Scott Brunette, the director of high school athletics for the Metropolitan Nashville Board of Education.

37. Brunette, in turn, communicated the allegations to the TSSAA.

38. Based on communications with Brunette, the TSSAA, through Defendant Carter, began an investigation into the allegations against Brentwood Academy. TSSAA Assistant Executive Directors Bernard Childress and Gene Menees interviewed Jacques Curry and Jesse Kellogg, two of the four students involved. Menees and Childress did not interview Jermonde Davis or Glean Eddy, the other two students. Menees and Childress talked with six public school coaches in the course of their investigation.

39. On July 29, 1997, Brentwood Academy was notified by Defendant Carter that the TSSAA had found Brentwood Academy guilty of multiple violations of the Recruiting Rule. This information was communicated to Brentwood Academy in the July 29, 1997 letter from Defendant Carter attached as Exhibit D.

40. The TSSAA has stated that Coach Flatt had no intention of violating the Recruiting Rule by mailing the Spring Practice Letters and making the telephone calls.

41. Defendant Carter's initial findings and penalties are accurately described in the July 29, 1997 letter from Defendant Carter to Brentwood Academy that is attached

as Exhibit D.

42. Under TSSAA procedures, Brentwood Academy appealed to the full Board of Control at a hearing held on August 23, 1997, at the Music City Sheraton Hotel in Nashville. The members of the Board of Control who ruled on this second appeal were: Mike Reed of Morristown, President; Harry Durham of Memphis, Vice-President; Lynn Brown of Maryville; John Dixon of Benton; Morris Rogers of Huntland; Mike Hammond of Nashville; Mickey Dunn of Lawrenceburg; Fred Kessler of Bolivar; and Sam Myles of Dyersburg. Rogers, Hammond and Dunn had listened to the evidence in the first appeal.

43. The Board of Control's findings and penalties are accurately described in the August 23, 1997 letter from Mike Reed to Brentwood Academy attached as Exhibit E.

44. By electing to be a member of TSSAA, each member school agrees to abide by the Constitution and By-laws of TSSAA.

45. According to the TSSAA Constitution, the TSSAA By-laws are passed by a Legislative Council consisting of nine members elected by TSSAA member schools.

46. According to the TSSAA Constitution, the TSSAA By-laws are enforced by a Board of Control consisting of nine members elected by TSSAA member schools.

47. In 1990, a three-member committee of the Legislative Council was appointed to review the recruiting rule and propose additional questions and answers and guidelines for interpreting the rule in various situations. The committee included Jim Pfifer, who was Vice President of the Legislative Council and principal of Notre Dame High School in Chattanooga, a non-public TSSAA member school. The result of this committee's work was the addition to the TSSAA handbook of new "questions and answers" pertaining to the recruiting rule.

48. In the 1992-93 TSSAA handbook, which was published and distributed prior to January 1, 1993, new "Guidelines for Understanding the 'Recruiting Rule' and

Understanding 'What's Undue Influence?'" were added to the TSSAA handbook. The first of these guidelines provides:

> "The major theme of the 'recruiting rule' is not 'initial contact' The major theme is 'exceeding what is normal and appropriate.' Initial contact can be a violation, but is only one of many things that can exceed what is normal and appropriate."

49. Under TSSAA By-laws, Brentwood Academy was permitted to present an initial appeal on August 13, 1997, and a subsequent appeal to the entire Board of Control on August 23, 1997.

50. As a result of Brentwood Academy's appeals, the sanctions which Ronnie Carter imposed in his preliminary decision of July 29, 1997 were changed.

51. At the time of the meeting on February 10, 1993, and the letter of February 24, 1993, Brentwood Academy Headmaster Bill Brown and Athletic Director Carlton Flatt possessed or had ready access to a copy of the then-current TSSAA By-laws as set forth in the TSSAA Handbook.

52. At the time of the meeting on February 10, 1993, and the letter of February 24, 1993, the Guidelines for understanding the "recruiting rule" appeared in the TSSAA Handbook as a part of the TSSAA By-Laws, and the first of those Guidelines stated:

> "The major theme of the 'recruiting rule' is not 'initial contact.' The major theme is 'exceeding what is normal and appropriate.' Initial contact can be a violation, but is only one of many things that can exceed what is normal and appropriate."

53. Carlton Flatt received a copy of Ronnie Carter's January 15, 1992 letter to Brentwood Academy Headmaster Bill Brown.

54. TSSAA's first version of the "recruiting rule" was adopted in 1935, and the rule in all its amended forms since 1935 has prohibited "the use of undue influence."

55 On or about May 30, 1997, Carlton Flatt informed

TSSAA that John Patton coached Brentwood Academy's middle school boys basketball team and used the Brentwood Academy gym for an AAU basketball team that included several of Brentwood Academy's players.

56. Typically, Brentwood Academy has 8 to 12 new 9th-12th grade students participating in interscholastic football at the beginning of fall football practice.

57. In 1995, no students enrolled at other schools attended spring football practice at Brentwood Academy. In 1996, one or two students enrolled at other schools attended spring football practice at Brentwood Academy. In 1997, twelve students enrolled in the eighth grade at other schools attended varsity spring football practice at Brentwood Academy.

Respectfully submitted,

/s/

G. Thomas Nebel (BPR #5206)
501 Union Street, Ste. 504
Nashville, Tennessee 37219
(615) 244-4700

/s/

H. Lee Barfield, II (BPR #2581)
W. Scott Sims (BPR #17563)
Bass, Berry & Sims, PLC
2700 First American Center
Nashville, Tennessee 37238
(615) 742-6202

Attorneys for Plaintiff

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BRENTWOOD ACADEMY, Plaintiff, v. TENNESSEE SECONDARY SCHOOLS ATHLETIC ASSOCIATION and RONNIE CARTER, Executive Director and Individually, Defendants.	)	No: 3-97- 249 Judge Campbell Magistrate Judge Haynes

AFFIDAVIT OF JEROME V. SAILORS

Jerome V. Sailors, being first duly sworn, upon his oath deposes and says:

1. My name is Jerome V. Sailors and I am the Executive Director of the State Board of Education of the State of Tennessee and my office is located on the 9th Floor of the Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37219. I was appointed as Executive Director in January 1996 and assumed my position in April 1996. Before January 1996, I served as Superintendent of the Anderson County, Tennessee School System for seven years.

2. The minutes of the State Board of Education indicate that on August 25, 1972, the State Board of Education adopted the following resolution regarding the Tennessee Secondary School Athletic Association:

RESOLUTION

"WHEREAS, the State Board of Education by deference has recognized since 1925 the functions of the Tennessee Secondary School Association in providing standards, rules and regulations for interscholastic competition in the public schools of Tennessee:

NOW, THEREFORE, BE IT RESOLVED, That the Tennessee State Board of Education recognizes and designates the Tennessee Secondary School Athletic Association as the organization to supervise and regulate the athletic activities in which the public junior and senior high schools of Tennessee participate in on an interscholastic basis. (Junior High Schools must include grade 9 in order to qualify for membership.) The authority granted herein shall remain in effect until revoked.

BE IT FURTHER RESOLVED, That the State Board of Education approves the current rules and regulations as stated in the 1972-73 official handbook of the Tennessee Secondary School Athletic Association and reserves the right to review the appropriateness of any future changes; and

BE IT FURTHER RESOLVED, That the Chairman of the Tennessee State Board of Education shall designate a person or persons to serve in an ex-officio capacity of the Tennessee Secondary School Athletic Association Board of Control and Legislative Council".

The minutes of the State Board of Education indicate that this resolution was unanimously adopted. A copy of the minutes of the August 25, 1972 meeting are attached.

3. I am also attaching a copy of the current regulation of the State Board of Education regarding TSSAA. Rule 0520-1-2-.08 **Interscholastic Athletics** provides:

> (1) The State Board of Education recognizes the value of participating in interscholastic athletics and the role of the Tennessee Secondary School Athletic Association in coordinating interscholastic athletic competition. The State Board of Education authorizes

the public schools of the state to voluntarily maintain membership in the Tennessee Secondary School Athletic Association."

The latest revision to this rule was filed on October 31, 1995, effective February 28, 1996. The authority of the Tennessee State Board of Education as authorized by the Tennessee General Assembly is set forth in § 49-1-301 9 et. seq. Tenn. Code Ann. At no point in § 49-1-302 is there any reference to the authority of the State Board of Education to set policies for interscholastic athletics or extra-curricular activities. Apparently, the State Board assumed the responsibility in 1972 when it fret addressed this matter but, in my judgment, there is no statutory authority granted to the State Board of Education to recognize, designate, or authorize the Tennessee Secondary School Athletic Association to take any action relevant to coordinating or regulating interscholastic athletic competition in the state of Tennessee.

4. The State Board of Education does not in any way approve or disapprove or act upon any of the TSSAA rules and regulations regarding the regulation of athletic competition between member schools. TSSAA does not submit to the State Board of Education for approval of its rules and regulations nor does the State Board of Education approve, consider, or disapprove the salaries for the Executive Director, the Associate Executive Directors or the staff members of the TSSAA. As far as I know, TSSAA has the authority to purchase real property, buy and sell property, mortgage or encumber property and execute promissory notes, deeds of trust, or mortgages without any approval or consideration by the State Board of Education. Likewise, TSSAA does not submit to nor does the State Board of Education approve any budget of any type for TSSAA's operations. TSSAA does not receive any tax revenues from the State of Tennessee, the State Board of Education, or the Department of Education Likewise, no

member of the State Board of Education attends meetings either of the TSSAA Board of Control or Legislative Council. Any public high school in Tennessee is free to join or refrain from joining TSSAA.

FURTHER AFFIANT SAITH NOT.

/s/ Jerome V. Sailors
Jerome V. Sailors

Sworn to and subscribed before
me this 26th day of June, 1998.

/s/ Phyllis E. Childress

My Commission Expires: January 29, 2000

[Certificate of Service omitted in printing.]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BRENTWOOD ACADEMY, Plaintiff, v. TENNESSEE SECONDARY SCHOOLS ATHLETIC ASSOCIATION and RONNIE CARTER, Executive Director and Individually, Defendants.	)	No: 3-97- 249 Judge Campbell Magistrate Judge Haynes

AFFIDAVIT OF RONNIE CARTER

Ronnie Carter, being first duly sworn, upon his oath deposes and says:

1. My name is Ronnie Carter and I reside at 1544 McMahon Hollow Road, Pleasantview, Tennessee. I am the Executive Director of the Tennessee Secondary School Athletic Association ("TSSAA") and have served in this capacity since 1986. I am elected by the members of the Board of Control of TSSAA for a term of three years and my duties are set forth in Article V of the Constitution of TSSAA.

2. Attached is a compilation which I have made of the history of the TSSAA Recruiting Rule, contained in the Constitution and By Laws of the TSSAA, as set forth in the TSSAA's handbook. The guidelines for interpreting the Recruiting Rule were developed and promulgated by the Legislative Council in 1992. The Committee which drafted the guidelines included Jim Phifer, Principal of Notre Dame School, a parochial school in Chattanooga.

3. The revenues of TSSAA are derived from State tournaments and championship playoffs. TSSAA receives no funds from any regular season interscholastic contests between member schools, regardless of the sport or the location of the event. During the 1997-98 school year, the membership dues paid to TSSAA by its member schools, whether public, private or parochial, amounted to approximately $70,000.00. During the same period, TSSAA received from total revenues of 1.6 million dollars, the majority of which come from gate receipts of tournaments and playoffs.

4. I have prepared a tabulation of the sites of post-season playoff and tournament events for sports which TSSAA sanctions, golf, soccer, volleyball, cross-country, football, basketball, wrestling, baseball, softball, tennis and track, for the school years 1995-96, 1996-97, and 1997-98. The tabulation for all of these secondary school athletic contests for the three academic years is as follows:

1995-96
Public Sites 300 Private Sites 74
1996-97
Public Sites 301 Private Sites 89
1997-98
Public Sites 225 Private Sites 52

For the three year period, of the 1,071 post-season, championship and playoff events, 827 were conducted at public facilities and 244 were held at private or parochial schools. Thus, 28 percent of the post-season tournament games were held at the facilities of private or parochial member schools. At the district and regional levels of post-season tournament and playoff competition, the member schools select their own tournament sites. TSSAA has no involvement in the selection of these sites.

5. Where TSSAA utilizes public facilities, stadiums, gyms or grounds, government owned and utilized for state tournament play or playoffs, such as the Murphy Center on

the campus of Middle Tennessee State University at Murfreesboro, (where TSSAA conducts its state basketball championships) TSSAA is required to enter into a written agreement with MTSU in order to be able to use the facility. Under this Agreement, TSSAA is required to register with the Sales Tax Division of the Tennessee Department of Revenue and must pay all applicable amusement sales taxes. Also, TSSAA must furnish proof of insurance, as required by the policies of the State Board of Regents of the university and community college system of Tennessee for private used or the facility. Furthermore, TSSAA must agree to indemnify and hold MTSU harmless from all liabilities arising out of the use of the Murphy Center. For the "Spring Fling", the state championship tournaments in spring sports, i.d. track etc., TSSAA takes the bids from cities wishing to host the event and the host city provides, in its bid, that the sites for the tournament event or playoff.

FURTHER AFFIANT SAITH NOT.

/s/ Ronnie Carter
Ronnie Carter

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Sworn to and subscribed
before me, this 29th day of June, 1998.

/s/ Tammy Swann
Notary Public

My Commission Expires: 5/27/2001

[Exhibit A]

HISTORY OF THE "RECRUITING RULE"

In 1925, the Tennessee Secondary School Athletic Association was formed.

In 1935, the first recruiting rule was developed and it stated:

> "The use of undue influence by anyone in causing a student to transfer from one school to another for athletic purposes shall render the student ineligible for twelve months, and the school shall be penalized."

In 1951, the phrase . . . "or attempting to cause" was added, making the recruiting rule read:

> "The use of undue influence by anyone in causing, or attempting to cause, a student to transfer from one school to another for athletic purposes shall render the student ineligible for twelve months, and the school shall be penalized."

In 1958-59, the recruiting rule was changed to read:

> "The use of undue influence by any person connected, or not connected, with the school to secure or to retain a student or the parents or guardians of a student for athletic purposes may cause the student to become ineligible and will make the school subject to penalty "

In 1984-85, the phrase "with or without an athletic record" was added, making the rule read:

> "The use of undue influence on a student (with or without an athletic record), his parents or guardians of a student by any person connected, or not connected,

with the school to secure or retain a student for athletic purposes shall be a violation of the recruiting rule."

The Questions and Answers of the recruiting rule were also added:

Q. What is the penalty for violation of the recruiting rule?

A. Violation of the recruiting rule shall use the student to be ineligible at the school in violation, and a penalty shall be placed against the school.

Q. Is it permissible for a coach or teacher to transport an athlete to or from school?

A. No. A coach or teacher who transports an athlete to or from school will cause the athlete to become ineligible and the school will be subject to penalty.

Q. Is it permissible for a coach to contact a student or his parents prior to his enrollment in the school?

A. No, a coach may not contact a student or his parents prior to his enrollment in the school. This shall apply to all students whether or not they have an athletic record.

Q. How is undue influence interpreted in the recruiting rule?

A. A person or persons exceeding what is appropriate or normal and offering an incentive or inducement to a student with or without an athletic record.

In March of 1990, the Legislative Council made a decision regarding the rule and decided the following:

"That a committee consisting of Bill Stanfield, Gordon Perry, Jim Phifer, and members of the TSSAA staff meet to strengthen the interpretations regarding 'undue influence' under the recruiting rule and strengthen the interpretation made in the questions and answers section regarding this area, and also to look at the entire transfer rule."

In 1990-91, two new questions were added:

Q. What are some of the guides used in determining whether there has been undue influence used which would result in a violation of the recruiting rule?

A. Some examples are, but not limited to:

1. Providing of transportation or other inducement to any prospective student/athlete to take a qualifying examination at school, meet with school officials, etc.

2. Discussion of financial aid based on need with any prospective student/athlete by any member of the coaching staff until the student has enrolled in school (attended 3 days of school). All financial aid questions should be referred to the principal or the person in charge of financial aid. If the person in charge of financial aid is a coach, prior approval must be granted by the Executive Director of TSSAA.

3. Any initial contact or prearranged contact by a member of the coaching staff or representative of the school and a prospective student/athlete enrolled in any member school except where there is a definite feeder pattern.

4. Any initial contact or prearranged contact by a member of the coaching staff or representative of the school and a prospective student/athlete in the seventh grade and above at any non-member school except where there is a definite feeder pattern involving the schools.

Public high schools may contact public feeder schools (elementary, middle school, junior high school) where there is a definite feeder pattern. Private or parochial schools may contact private schools (elementary, middle school, junior high school) where there is a definite

feeder pattern.

Private or parochial schools may not contact students enrolled at the public schools. Public schools may not contact students enrolled at the private schools.

5. Any contact between a member of the coaching staff or representative of the school and prospective student/athletes prior to, during, or after contests at elementary schools, middle schools, and junior high schools except where there is a definite feeder pattern.

6. A member school is prohibited from giving party item with school advertisement (shirts, pennants, caps, jackets, etc.)

7. Admitting students to athletic contests free of charge where there is an admission being charged at the contest except where there is a definite feeder pattern involved with the school.

Q What is allowed by members schools in contacting prospective students?

A. A representative of the school may meet with students at a school that is defined as a feeder school or meet with students who are zoned to attend that school the following year. This visit must be cleared by the principals of both schools.

In 1992-93, the "Guidelines for Understanding the 'Recruiting Rule' and Understanding 'What's Undue Influence?'" was added. It reads:

1. The major theme of the "recruiting rule" is not "initial contact." The major theme is "exceeding what is normal and appropriate." Initial contact can be a violation, but is only one of many things that can exceed what is normal and appropriate.

2. One key is not treating "athletes" or "prospective athletes" any differently than students who are not athletes.

3. Students should be seen as students and not singled out based on their potential athletic ability.

4. Pre-arranged contact is seen in the same manner as initial contact.

5. Any student or family or individual that contacts a coach about attending a school where he or she should be informed that they need to contact the principal, admissions department, or guidance department if they have an interest.

6. Any meeting with coaches regarding athletes or prospective athletes or their families should be at the request of the family to the individual(s) responsible for admissions and should take place at the school.

7. High school athletics is not the same as colleges recruiting high school athletes for college athletics. High school athletics exist for an entirely different reason. High school coaches should not view 12, 13, 14 year-old students in the same manner as college coaches view high school seniors.

8. Administrators and coaches must realize that they have more responsibilities than the general public to understand the purpose of high school athletics, the principles behind the TSSAA rules etc., and to maintain a level of understanding and purpose when dealing with the general public and students.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BRENTWOOD ACADEMY, Plaintiff, v. TENNESSEE SECONDARY SCHOOLS ATHLETIC ASSOCIATION and RONNIE CARTER, Executive Director and Individually, Defendants.	)	NO: 3-97-249 JUDGE CAMPBELL MAG. JUDGE HAYNES

SECOND AFFIDAVIT OF MELNA VAN BEBER

Melna Van Beber, first being duly sworn according to law, states as follows:

(1) I am a paralegal employed by the law firm of Bass, Berry & Sims PLC, which represents plaintiff Brentwood Academy in this matter. I have held that position since 1996.

(2) I have personal knowledge of the facts contained in this affidavit and they are true, correct and accurate to the best of my knowledge, information and belief.

(3) At the direction of attorney Lee Barfield, I have attempted to ascertain whether all of the public high schools in Tennessee are members of the TSSAA. I was unable to identify any person who could answer this question directly or, any document setting forth the answer directly. Accordingly, I obtained a comprehensive listing of all of the public schools in the state from the Tennessee Department of Education. From that list, I determined that there are 295 public high schools in the state. I then reviewed the TSSAA's current membership roster to determine how

many of these 295 schools are members of the TSSAA. I ultimately determined that all 295 public high schools are members of the TSSAA.

(4) The foregoing conclusion is based upon the best evidence available to Brentwood Academy at this time, and I believe my analysis to be true and accurate.

(5) I have reviewed the Second Affidavit of Ronnie Carter, which was filed with the Court on July 22, 1998. During the course of my investigation, I contacted a number of the schools that Mr. Carter's affidavit identifies as non-TSSAA members, such as Harris-Hillman Special Education School, Weakley County Regional High School and Daniel McKee Alternative School. Those schools were not included on my list of potential TSSAA members because they do not have interscholastic sports programs.

FURTHER AFFIANT SAITH NOT.

/s/ Melva Van Beber
Melva Van Beber

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Sworn to before me this 14th day of July, 1998

/s/ Karen Reecer
Notary Public

My Commission Expires:
July 22, 2000

[Certificate of Service omitted in printing.]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BRENTWOOD ACADEMY, Plaintiff, v. TENNESSEE SECONDARY SCHOOLS ATHLETIC ASSOCIATION and RONNIE CARTER, Executive Director and Individually, Defendants.	)	No: 3-97- 249 Judge Campbell Magistrate Judge Haynes

DEFENDANTS' RESPONSES TO PLAINTIFF'S FIRST REQUESTS FOR ADMISSION

* * *

1. Admit that, as adults, the parent(s) of a secondary school student-athlete are not susceptible to "undue influence" and/or exploitation by secondary school representatives.

RESPONSE: The defendants object to this request on the grounds that it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. In Brentwood Academy v. TSSAA, 262 F.3d 543 (6th Cir. 2001), the Sixth Circuit remanded the case for an evaluation of TSSAA's "exploitation" and "level playing field" interests after TSSAA has had the opportunity to present whatever support it deems appropriate to justify its position. After the District Court decides if either or both of those interests are legitimate, it is then to apply those interests, along with TSSAA's recognized interest in keeping high school athletics in their proper place, to

the alleged recruiting rule violations that TSSAA enforced against Brentwood Academy in this case. The Sixth Circuit noted that TSSAA should be given the opportunity to present whatever support it deems appropriate to justify the need for the regulations on recruiting, but cautioned the parties to then stay focused on the two alleged recruiting rule violations in question rather than engage in a wide ranging attack or defense of the recruiting rule as a whole. Id. at 558. The recruiting rule violations in question involve letters mailed to, and telephone calls made to, eighth grade students, along with free admission of eighth grade students to athletic contests. The plaintiff's request pertains to hypothetical circumstances not at issue on remand, representing a patent and deliberate intent to ignore the Sixth Circuit's cautionary instructions and to instead engage in a wide-ranging facial attack on the recruiting rule, contrary to the law of the case.

* * *

12. Admit that the Recruiting Rule does not prohibit a public/private/parochial school from using undue influence to secure or retain a student for non-athletic purposes.

RESPONSE: The defendants adopt and incorporate by reference their objection to request number 1. Without waiving this objection, the defendants acknowledge that the TSSAA recruiting rule only regulates recruiting for athletic purposes. It does not in any way limit any member school in its efforts to recruit students for reasons unrelated to athletics. TSSAA only regulates the interscholastic athletic relations of its member schools, and only to the extent that the member schools have collectively and democratically agreed to such regulation. To the extent that the assertion in this request is consistent with this explanation, it is admitted.

* * *

66. Admit that, at the time the Recruiting Rule was initially adopted, the TSSAA did not have evidence that student-athletes were being treated differently by school officials than other students.

RESPONSE: The defendants adopt and incorporate by reference their objection to request number 34.

67. Admit that, at the present time, the TSSAA does not have evidence that student-athletes are being treated differently by school officials than other students.

RESPONSE: The defendants adopt and incorporate by reference their objection to request number 30. Without waiving this objection, the request is denied.

* * *

72. Admit that the Recruiting Rule does not define "undue influence."

RESPONSE: The defendants adopt and incorporate by reference their objection to request numbers 1 and 3.

73. Admit that the Recruiting Rule does not define "what is normal and appropriate."

RESPONSE: The defendants adopt and incorporate by reference their objection to request numbers 1 and 3.

/s/ Richard L. Colbert
Richard L. Colbert
COLBERT & WINSTEAD, P.C.
1812 Broadway
Nashville, TN 37203
(615) 321-0555

Attorney for Defendants

[Certificate of service omitted in printing]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BRENTWOOD ACADEMY, Plaintiff, v. TENNESSEE SECONDARY SCHOOLS ATHLETIC ASSOCIATION and RONNIE CARTER, Executive Director and Individually, Defendants.	)	No: 3-97-1249 Judge Campbell Magistrate Judge Griffin

DEFENDANTS' THIRD SUPPLEMENTAL RESPONSES TO PLAINTIFF'S SECOND SET OF INTERROGATORIES

* * *

Request No. 66: Defendants renew and incorporate their original objections to Request number 66 as it relates to Interrogatory number 1. Defendants also object to this Request on grounds that the application of intermediate scrutiny in an "as applied" analysis does not require that defendants provide empirical or factual evidence to support the adoption of the recruiting rule.

In accordance with the Magistrate Judge's ruling, Defendants respond by stating that they lack knowledge or information sufficient to adequately respond to this request because the drafters of the original recruiting rule that was adopted in or around 1930 are dead, and no written legislative history is known to exist for the rule.

Request No. 67: Defendants renew and incorporate their original objections to Request number 67 as it relates to Interrogatory number 1. Without waiving such objection, Defendants deny this request. In accordance with the Magistrate Judge's ruling, Defendants state that they rely solely on the facts and empirical evidence upon which Defendants' experts relied. Other than anecdotal evidence that plainly demonstrates that interscholastic student-athletes are often treated differently than other students, there are no additional facts or empirical evidence that Defendants presently rely on to support their denial of Plaintiff's request.

Request No. 72: Defendants renew and incorporate their original objection to Request number 72 as it relates to Interrogatory number 1. In accordance with the Magistrate Judge's ruling, Defendants respond by admitting that the recruiting rule itself does not define undue influence, although the interpretive commentary explains to high school administrators and coaches what constitutes undue influence. In addition, the interpretive commentary specifically identified the actions of Brentwood Academy at issue in this case, namely free admission to a football game and coaches initiating contact with student-athletes who were not yet enrolled at Brentwood Academy, as examples of conduct that would be regarded as undue influence.

Request No. 73: Defendants renew and incorporate their original objection to Request number 73 as it relates to Interrogatory number 1. In accordance with the Magistrate Judge's ruling, Defendants respond by admitting that the recruiting rule itself does not define what is normal and appropriate. The rule itself does not use the phrase "normal and appropriate." That phrase is found in once sentence of the two pages of interpretive

commentary accompanying the rule. In addition, when considered in the context of educational athletics and the interests of member schools that are served by TSSAA as well as in the context of the overall interpretive commentary that accompanies the rule, rather than in isolation and without regard to the surrounding circumstances, the high school coaches and administrators who are expected to comply with the rule can reasonably ascertain what is meant by the phrase. In case there are any doubts about whether a particular act is or is not "normal and appropriate," TSSA officials are on hand on a daily basis to discuss particular circumstances with coaches and administrators.

* * *

8. Does TSSAA contend that the Recruiting Rule is necessary to prevent the exploitation of student-athletes in Tennessee? If so, explain in detail the factual or empirical support for any such contention.

THIRD SUPPLEMENTAL RESPONSE: In accordance with the Magistrate's ruling, Defendants respond by stating that preventing the exertion of undue influence for athletic purposes, whether by this particular rule or by some other means, is necessary to prevent the exploitation of student-athletes. In support thereof, Defendants refer Plaintiff to the facts and empirical evidence relied upon by Defendants' experts as stated in Defendants' expert witness statements. Anecdotal evidence also demonstrates the need to prohibit the use of undue influence to secure the athletic services of interscholastic student-athletes. As Defendants stated in their third supplemental response to Request number 66 as it relates to Interrogatory number 1, Defendants do not possess either factual or empirical support for the adoption of the recruiting rule

since the drafters of the rule are dead and no there is no known written legislative history for the rule.

* * *

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

[Caption Omitted in Printing]

TRANSCRIPT OF PROCEEDINGS – BENCH TRIAL

VOLUME I of Ten

BEFORE THE HON. TODD J. CAMPBELL,
U. S. District Judge

on December 11, 2002

* * *

[Testimony of Carlton Flatt]

[134]

* * *

Q. * * * Do you recall at the final hearing, Music City Sheraton in Nashville, whether or not Brentwood Academy offered to call Bart King?

A. Yes, sir.

Q. Was he called?

A. No, sir.

Q. Why not?

A. Mr. Carter said he didn't want him to. Said, Would y'all like to talk to Bart King? Mr. Carter said, No.

* * *

[146]

***

BY MR. COLBERT:

Q. Now, Coach Flatt, I passed you what's been marked as Defendants' Exhibit 73. You recognize that letter from Bill Brown to Ronnie Carter?

A. Yes, sir.

Q. And did you assist in the preparation of this --

A. Yes, sir.

Q. -- letter?

A. Yes, sir.

Q. Okay. And this was Brentwood Academy's response to these allegations and this information that Mr. Carter had passed along with his July 3rd memo, right?

A. Right.

Q. Okay. So is it -- wouldn't it be fair to say that, as these two pieces of correspondence reflect, Brentwood Academy had a pretty good idea what the allegations were against it as of that time?

A. Well, we had a pretty good idea of the possible -- some of the possible allegations, yes, sir.

Q. Okay. Enough of an idea to do a ten-page detailed response, right?

A. Well, we were trying to answer the allegations.

Q. Okay. And this was the correspondence where Brentwood Academy wound up supplying to TSSAA what we are all now referring to as the spring practice letter, right?

A. Yes. We sent that, yes. Right.

***

[147]

***

Q. Now as a coach who coaches kids, high school kids, you understand, do you not, Coach Flatt, that if a coach tells a player, I think this would be your advantage, young man, the player's not going to think that's optional, is he?

A. In some cases.

Q. Player's going to look at that and think if I want to play for this coach I guess I better do it?

A. I sure hope they didn't feel that way.

Q. You actually got calls from a couple parents and they did feel that way, didn't they?

A. And I tried to correct it by calling everybody back. What I wanted to correct, not coming to practice was that they were not fulfilling what they should do at their other school.

Q. All right.

A. That was the problem.

Q. All right. And when you got these calls, I think you said, Whoa, I've got a problem here?

A. Right.

Q. Because you realized the effect your letter was having on them, right?

A. No, I realized they had not gone by my letter.

Q. You realized the effect your letter was having is that they felt like they might even need to miss a track meet to come to spring practice?

A. Right.

Q. A track meet at the school they were attending to come to spring practice at a school they weren't attending?

A. Right.

Q. That was the effect your letter was having on them?

A. On?

Q. The ones that come?

A. The ones that come, right. Could have had the effect on all of them, I don't know. But I tried to correct that.

Q. All right. All right. And you worried about what the middle school coaches would think, right?

A. Right.

***

[194]

***

Q. All right. Going briefly to the issue of the investigation and so forth, let me ask you one very specific

question to be sure the record's clear on this.

To your knowledge, did the TSSAA ever, ever give Brentwood Academy a list, a written list of accusations of Section 21 violations against it before Mr. Carter sent out his June -- July 29th finding of violations?

A. Well, we received from Mr. Carter information of allegations. You know, I was reading the stuff and supposedly this Mr. King had promised them cars and given them diamonds and everything. I mean he put those down as allegations.

***

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

[Caption Omitted in Printing]

TRANSCRIPT OF PROCEEDINGS – BENCH TRIAL

VOLUME II of Ten

BEFORE THE HON. TODD J. CAMPBELL,
U. S. District Judge

on December 12, 2002

* * *

[Testimony of Ellen Goldring]

[329]

* * *

Q. Now the parents' decision about which of these schools is best for their child that you talked about, is information on choices important or not?

A. The flow of information is the most important -- one of the most important or the most important reasons that parents can make good choices.

Q. Why is that? **[330]**

A. Education is a complicated business and it's a very important decision. And obviously you can't make -- or families can make good decisions about the best fit, what their child needs and where their child can be most successful if they don't have access to good information. That's number one.

Number two, I don't think we realize the majority of us sitting in this court, we're middle class, upper middle class, I

don't think we understand the extent to which we have access to information through our social networks and social capital. Therefore, if we want to provide access and equity to all children to avail themselves of the choices that are there, and they are there, it is our school districts' responsibilities to provide as much information as possible in as many avenues as possible and through as many channels as possible so parents can know about the choices, can make informed decisions and then can exercise their choice option if they choose to do so.

* * *

Q. * * * What is social networking?

A. We -- typically people move in what we call social **[331]** networks, it's a sociological term. So, you know, people from work who're in the same social class where you work, you know, people in your neighborhood who live in the same social milieu that you live in. We have access to people who know people at different types of schools. So you know about the system. That's called the social network.

Friends, family, kin, who we talk to, where we frequent, places where we frequent, people that you bump into.

Unfortunately, in this country lower socio people are highly isolated either because they are unemployed, because of housing patterns, or because of the way in which -- the chaotic way in which they may be working. If you don't have a car and you're riding on a bus for one and a half hours to get to your place of employment is an example.

So for us, we are attuned to when we make the choice of school, it's in our milieu already. I bet everyone of us knows, oh, when my son turns to be a kindergardener I need to consider should I go to public school, what is the nature of my private school? Who do I know who's going to different private schools? We think about that. We talk to people. We do it all the time. Every time there is a transition in the

ages of our school children, it's part of our milieu. Sometimes it's so much a part of our milieu, I don't know, it makes me very nervous, **[332]** this is a matter you start thinking about it, talking about it.

Now if you're in a milieu where no one is thinking about choosing a school, it's not part of what you've ever done. You don't know anyone who went to a magnet school, you don't frequent private schools. You don't know anyone who ever went to a private school. You therefore need a way to be brought into the decision making process.

When we -- our study on magnet school, one magnet school, one parent who didn't exercise choice, and this was in a district that had 50 percent of the schools were magnet schools, and we asked her why didn't she, and she said, this is pretty much a quote, If you're not in the market for a used car, you're not going to look at the classified ads.

So if you're not in the framework that you're looking to choose a school, then you don't think about it.

So unless you have some social network, social milieu, it's incumbent. If we're serious about equal opportunities for people to make choices, and if we're serious about diversity in our schools, socioeconomic diversity, racial diversity, we need to think about other ways to share information because it is not natural to everyone the same way it's natural to us.

Q. Did you -- where did you learn this information about the difference between and the importance of social **[333]** networking and the differences between lower socioeconomic and higher socioeconomic status?

A. In our studies of St. Louis and Cincinnati we interviewed parents, we surveyed hundreds and hundreds and hundreds of parents through both magnet schools and non-magnet schools, and in Nashville we're similarly doing -- getting ready to do a similar study, and we are piloting a survey and, in fact, we just piloted a telephone survey last week and we asked low income parents about the magnet schools and they have looked at me and they said, Magnet

schools, aren't those private schools?

We take a lot for granted. That's the important point I think we need to make clear.

Q. Based on your research, Professor, what do parents look for in choosing a school? What are the key factors?

A. The key factor that parents state is reputation of the school, academic reputation of the school, overall reputation of the school. They talk about a safe, secure, orderly environment where discipline is upheld, they talk about, quote-unquote, good teachers and good students. A general sense that it is a good school.

When you put down what good means, they then begin to articulate those other things, safety, teachers, discipline, academic requirements, et cetera.

Q. What about athletics? How does athletics rank as a **[334]** factor?

A. In the Gallup Poll that was asked, it ranked lower, and I can't recall the exact numbers, but I think only 34 percent said it was highly important, and this compares to about 80 or 90 percent of parents who mention academics, teaching, safety and things like that.

Q. Going back to the lower socioeconomic group that you have discussed in your research a little bit, why do they not have the social networks that you talk about? Why are they --

A. As I mentioned before, they are in a different milieu. So if they are in a milieu where no one neighborhood, a milieu is a neighborhood context place of work, so if they are in a milieu that has never accessed choice before, they don't know anyone who went to a private school, they may not know that there are scholarship opportunities, how would I get there, could my son ever get in. And it's hard to articulate this. But many poor families are grappling with day to day issues that again I sometimes think that we don't have an inkling into their lives.

* * *

[341]

* * *

Q. All right. Let's move to soliciting students for just a minute. You mentioned that the right match for school and student is the key, and it's the parents' choice.

Do successful school choice programs depend in any way on recruiting soliciting students?

A. All of them do. And we don't ever use the word [342] soliciting. We would use the word recruiting in the educational arena. Schools that don't have attendance zones have to get their students by recruitment. Even though some schools are so popular like, let's say, Hume-Fogg, they may say, Oh, we can rest on our laurels and we know enough students are going to fill up that magnet school application and come to us, but given that I think universally and I guess the Supreme Court's going to tell us if diversity is now a public interest, I think educationally we all believe that diversity is a very, very important interest and when we say diversity we mean diversity in a number of arenas.

And so recruiting is important because if you just accept the person who comes to you, that may not be the student body that you want. So it's important, you know, when we think about school choice, there is a funnel, you think in terms of a funnel. And in one of my papers I write about this funnel. And when we think about school choice we have to remember that there are many parents, we call them non-active choosers, meaning they may have gone to get a lot of information about schools, they may have spoken to formal and informal school officials or friends or colleagues, and they may have chosen to remain in their public school. Well, they don't come up in any roster of people who made a school choice because they are in their zoned school and there's no way to count them unless, like we did, we [343] surveyed them and we went to the public schools and we were surprised because we said, Did you

ever consider school choice? You know, What information did you look at? And we found there's quite a large percent of parents who're in the choice arena but we can't count them.

But as a school, the recruiting is important so we arrive at enough interest, you can't enroll students unless they first apply and you want that initial funnel, the application pool to be as rich and diverse and a match as possible.

Q. Is it important to the magnet schools? Is recruitment important to magnet schools?

A. Absolutely.

Q. What about not just the zoned public schools? Is recruitment important to officials there?

A. Well, it's becoming more so because of concerns about, without having racial court-ordered desegregation, it's a big concern because our schools are, in Nashville, are resegregating. Some of them. And so the way in which to present that both for the magnet schools and for the zoned schools is to try to encourage your zone, which some of the zones are racially integrated, that they don't go out of balance by having people either all go to magnet schools or all go to private schools. And that diversity is certainly an educational interest. **[344]**

Q. You're familiar and you reviewed the metro -- metro school strategic plan --

A. Correct.

Q. -- in connection with your testimony here.

Does metro have any plans to attract, to recruit, if you will, private school students back to the public system?

A. Yes, it is one of the stated strategicals of the current board to, and I don't recall the language, but to recruit or, attract back private schools -- private school students into the public schools.

Q. Now is that -- do you remember the number of students that is in the five-year plan?

A. No. There's a target and I don't recall it.

Q. We'll get to it a little bit later.

Is that good or bad? I mean, the fact that metro is attempting to recruit students from the private schools back to the public program, is that good or bad from an educational policy perspective?

A. Again, my perspective is we should care about what's good for kids. And we shouldn't be social engineering for anyone where they are going or where they can't go. So if metro wants to open their doors and tell their story and entice parents, ultimately based on their, quote-unquote, product, parents will decide whether they want to change **[345]** schools or they don't. I don't think it's inherently good or bad, until we know whether it's a good match.

Q. Okay. Do you know how schools tell their stories generally?

A. Yes.

* * *

Q. What about the in person, the face to face contact, in telling the stories? Is that prevalent and is it important?

A. I think it's crucial because ultimately parents need to know what they're getting into in any school they go to. They need to know what their choice options will be within a **[346]** school when they get to that school and I think that's an important point. We're not only choosing a school and then it's a school, but when you get inside that school, there's choices, especially in high school, all along the way.

So you need to know, number one, what courses are available as your child proceeds through the school.

Number two, you need to know what the expectations are. I can use a lot of personal examples in this as we're making choices for both of our children. I wanted to speak to a lot of people in the school one on one to make sure that I knew to the best of my ability what the school's perspective was about a number of things. And also whether that would fit the needs of my children.

Now obviously I'm a very informed consumer and I could ask probably questions that the typical parent may not ask, but even more so why we need educators involved, in my opinion, in these types of issues, meetings with anyone really, including athletics, is important. Because if it's not for my kid, the expectations on athletics I would want to know on the front end.

Q. What about the lower socioeconomic, lower S-E-S groups, is personal communications important to them, if so, why?

A. It needs to be equally important so again they can make informed decisions about what it is their child needs and can gain from a school. **[347]**

I'll give one example. When we went to the first open house at MLK, the first thing, MLK starts at seventh grade, and the first thing the guidance counselor got up and said is, you know, At this school your child will receive two to three hours of homework a night. That's an example. If that's not something that either you think your child can sustain or you as a family can try to support that type of commitment, you know, come talk to us. Let's see if this is a match. And this is a public school. So the more information on the front end, the better, in my opinion, everyone will be as they go through.

Q. How important is it a targeted contact, identifying a particular child or a particular family, to tell them the story?

A. Schools, you know, have different legitimate needs, and I think if diversity is an interest of a school and excellence is an interest of a school, I don't see any problem with that. So if there are, you know, the three students in the science fair who won and their names are in the paper and, you know, a school wants to pride themselves on having the best science program and thinks that's good for the child and the school, I don't see any downside to that as long as you know the parents are involved and educators are involved in the decision.

* * *

[427]

* * *

Q. Ms. Brasher, let me ask you, the spring practice letter, why choose a letter to send this information out to the parents? Why not send it by some other method of communication? Why was a letter chosen?

A. Well, that was I guess the day before e-mail. Now I [428] guess I would e-mail people those things. Even though a lot of families still don't have that, because it's the best way to communicate with them. I mean if you send a letter, you know you have sent it and you're assuming they have received it.

Q. What about telephone calls to parents? Why make telephone calls to parents about information, school information, rather than communicating some other way?

A. Well, because I mean I'm a parent, I want people calling me telling me what my kids can do and what they can't do and what they are involved in. I want personal contact. And in admissions we want families to have a personal contact with people at our school, besides the admissions director.

Q. Was it practical at Brentwood Academy in 1996 and 1997 to put the information concerning the dates of spring practice in the admissions or the applications packet that families would pick up in the fall?

A. No.

Q. Why not?

A. Well, because Coach Flatt wouldn't have known when they were. But we have a planned way of communicating with families. The admission packet that we send basically tells families about our mission, our vision, it's a large picture about the school. And we break it down into smaller details, so by the time spring practice comes along,

it's a [429] very detailed piece of information that -- it would serve no purpose going any earlier than right before spring practice.

Q. What about putting that information in an acceptance packet of information that goes out to the parents when the student is accepted?

A. A spring practice letter?

Q. A spring practice letter.

A. Send it in an acceptance packet?

Q. Is that practical?

A. No.

Q. What about communicating through real estate agents? The information about spring practice, is that a reasonable way to communicate information about dates of spring practice?

A. I guess if they were moving into town maybe. But no. There are only however many we send, however many I sent it to, less than 20 boys that got that letter. The most effective way is to send it in a letter to the parents.

Q. What about sending it in a letter that's not just for spring practice but it's in a compilation of all other events, spring practice, athletic events, non-athletic events, all other events, and it goes out to a whole group of students not just people that are interested in football?

A. Well, as I said earlier, we have a way we want to communicate with families and the end of May packet contains [430] information that they need to know about the summer and the next school year, the mid July packet has specific things that are included before that there's not one packet that goes out to everybody. And besides that, when we send packets we really want to send packets of information that apply to everybody. For example, when we send the schedules, we would send an individual schedule to each child, that wouldn't go out in a huge mass mailing. Spring practice is a targeted group of boys. Girls don't need to know about it. It's just boys. Middle school children wouldn't need to know about it. It's just upper

school boys.

We do the same thing with cheerleaders, cheerleading try outs for middle school and upper school are in the spring and we send those cheerleading try out letter information things to all girls in middle school, all girls in upper school, with specific dates on them for when those try outs are. It would serve no purpose to send it to everybody. I mean that would be a waste.

Q. Are you familiar with something The Tennessean called The Scoreboard, which is a thing The Tennessean runs that gives a listing of all the details of athletic events and so forth, ever seen that or heard of that?

A. I don't know. I don't know if I have or not.

Q. Ever think about sending out the spring practice **[431]** information or just putting it in The Scoreboard in The Tennessean?

A. is that the fact -- with all the stats on it and all the --

Q. Yes.

A. Okay. I know what that is. No. I would not put it in there.

Q. Why not?

A. A lot of people don't read the newspaper. I'll go -- this week I haven't read the paper all week. I mean --

Q. If you wanted to put some information in the newspaper about Brentwood Academy, which paper would you put it in? Or papers?

A. Well, I wouldn't. I mean Brentwood, Williamson County, we have several newspapers there, but not all of your students who come to Brentwood live in Williamson County don't get that paper, it would be an ineffective way.

Q. All right. Let me move to the issue of the educational marketplace for high school students in Davidson and Williamson County.

What are the public school choices for students in the Davidson and Williamson County area?

A. You mean like magnet schools?

Q. Yes.

A. Charter schools. **[432]**

Q. Who do you compete against -- who does Brentwood Academy compete against for students?

A. Public schools, independent schools, home schools, parochial schools, magnet schools. There are a lot of different schools.

Q. All right.

A. A lot of different options.

Q. Is there -- are there a lot of options available?

A. Yep.

Q. Is it important in competing for those students, is it important for all the schools to be able to tell their story about what their schools stand for and what they expect of students if they choose to come to school? It's crucial?

A. It's crucial.

Q. Why is that important?

A. Because parents deserve to know all the different opportunities that are available for their children so they can make a good choice for their child on which school they would want to attend. Every school has a different mission, a different emphasis, a different make-up, different faculty criteria. Parents need to know all about the different schools to make a good decision.

Q. Who decides, Ms. Brasher, where a child will go to high school?

A. I think the parents should decide that. **[433]**

Q. Is that what happens that you have observed in your experience as admissions director?

A. I think sometimes I have had parents tell me they let the child make that decision, but my counsel is always that the parents make that decision. Of course it depends on the age of the child. An older child might have more input than, say, a fifth grader.

Q. How do parents get information about their school choices, where do they get it?

A. Well, if they are interested in Brentwood Academy

they call Brentwood Academy. If they are interested in Brentwood High, then they would call Brentwood High.

Q. All right. Do they get it by word of mouth at all?

A. Oh, yes. They talk to other parents, they talk to alumni of those schools, alumni parents, people in their churches, civic groups, work, club teams, sports, ballet class. Yes, they talk a lot about schools, parents do.

Q. Let's talk about the other side of communications, just not the school telling its story, but is it important for the school to listen to the parents and to the child about what their interests are, what their expectations are, what their values are?

A. Yes. We have, as every school has, a specific mission and what a school is trying to do is to match the family, the child to the mix of the school. Not everybody is going **[434]** to like Brentwood Academy. Not everybody is going to fit in at Brentwood Academy. So it's really important to not only gather standardized testing and recommendations from teachers and application information, but it's very important, we have required interviews for every family, to look them in the eye, to talk about the details of our school because everybody wins if it's a good placement. If the parents know a lot of information, then they are able to make a good decision for their child. Parents have different priorities.

Q. Has the Board of Trustees of Brentwood Academy determined that diversity is an important goal for their school?

A. Yes. And I believe it's about ten years ago they did a very thorough longrange planning study in diversity, I think was one of the five -- I think there were five points.

Q. What kind of diversity is important to Brentwood Academy?

A. We're looking for -- we don't want cookie-cutter children in our school or families. We're looking for socioeconomic diversity, racial diversity, interests, different interests, we are looking for multi-culturalism. We want a

diverse student body.

Q. Why is that important to Brentwood, socioeconomic, racial and so forth? **[435]**

A. We're in the process of educating children. And the world is very diverse and multi-cultural and it's very important for children to go to school with different kinds of people. It's very important before we send them off to college, or into the working place, it's very important that they know how to get along with other people, appreciate different differences, learn to deal with all that.

Q. Is Brentwood Academy located in a fairly affluent part of town?

A. Yes, Williamson County.

Q. How does Brentwood Academy or has Brentwood Academy wanted to reach out to new students and families to promote diversity?

A. Have we wanted to?

Q. Yes.

A. Yes.

Q. How have you done that?

A. We really haven't been able to do that.

Q. Why not?

A. Because of TSSAA rules.

Q. Are there any restrictions that you're aware of, state, federal or local, governmental restrictions that prohibit the solicitation or the recruitment of students for academic purposes?

A. No. **[436]**

Q. Okay. The only restriction you know of is this recruiting rule the TSSAA has, is that right?

A. Yes.

Q. All right. How does it restrict Brentwood Academy's ability to tell its story?

A. Well, we don't understand, I mean it's very vague and we don't understand what we can do and what we can't do, so we have chosen to really not do anything.

Q. Have you had situations, specific situations at your

school in which you have wanted to increase the diversity, improve and promote the diversity, but been unable to do that?

A. Yes.

Q. Tell me about that.

A. Because the rule states, you know, children with or without an athletic record, say, if you're talking to a child, talking to a parent about a child, you don't know if they have an athletic record or not, so say there's a great violinist and I'm at a concert, I couldn't go up to that child if that child was in upper school, ninth grade, eighth grade, and talk to him or her about that because they also might be a great basketball player.

Q. Now what if she was a pure violinist and not an athlete and you know that, were there any restrictions on your communicating with the great violinist? **[437]**

A. No, if I knew that --

Q. Or the violinist's parents if you knew that?

A. If I knew what?

Q. You don't know, you don't know whether they are athletes or not, is there a limitation on communication there?

A. I don't think so. No.

Q. If you did not know -- let me go back and ask the question again.

If you did not know whether or not this violinist --

A. No, I did not know, I wouldn't do it.

Q. Why not?

A. Because there may be an athletic record or an interest in that.

Q. And then what? Might be a violation of the rule?

A. It might be, might not be. But it might be.

Q. It might be a violation of the recruiting rule?

A. Right.

Q. Now did you -- did Brentwood Academy several years ago have an interest in improving its diversity by attracting African-American women?

A. Yes.

Q. Tell me about that.

A. We bad several African-American males but one or two African-American girls and we were very concerned about that **[438]** because we had heard -- I mean we would have some African-American girls apply but they would not see any other -- any other African-American girls there and maybe even not come because of that. I don't know. But that could have been a reason they did not attend.

We also had some African-American parents who met with me very concerned, of boys, very concerned there were no girls at the school and why that was. And really offered to help me with that. To help with that.

Q. Well, why not just initiate contact with some African-American parent who may have children who're interested like maybe write a letter or make a telephone call?

A. Well, the recruiting rule would prohibit us from doing that if that child had a record, an athletic record.

Q. All right. Well, what did you do about the problem?

Did you do anything about it?

How did you communicate?

How did you get the word out that you were interested in increased diversity at your school?

A. Pretty much parents were the ones. The African-American parents were the ones who really I think talked about it among their communities and now we have several siblings there, family members, but we really can't -- we're prohibited from talking to -- from targeting any group.

Q. Now the recruiting rule, Ms. Brasher, as you currently **[439]** understand it, how far does it affect Brentwood Academy's ability to tell its story?

A. It affects it in that we depend upon our admission days to tell our story, those are two events, as I said earlier, in November and January or February, where families come to our school and we put an ad in the newspaper concerning those admission days. We have group meetings, once again

ads in the newspaper, campus visits. The school is always available for campus visits.

Q. Well, what about with your hope that African-American women would call and their families would call in interest, what do you do there? How did the recruiting rule affect your ability to tell your story there?

A. Well, we couldn't go out and find those women, those girls. If they had an athletic record, it would be -- the recruiting rule, we would be in violation of that.

Q. All right. What could you do there?

Just wait?

A. Wait for the phone to ring and hope that they would come to your admission days or call to ask to visit our campus.

Q. All right. If an African-American family at Brentwood Academy or a non African-American family had come to you and said, I know a family that has a child that I think would fit well with this school, would you write a letter, give a call to the parents and tell them that you would be **[440]** interested in having them come by and talk about coming to the school, could you do that?

A. No. I would -- no, I would ask that family to ask their friends to call me in the admission office.

Q. All right. And if they didn't call, --

A. I didn't call them.

Q. What about the issue of communicating with, let's just say the kids in a feeder pattern in a public school like Grassland Middle School, for example, Grassland Middle School is a school in the neighborhood of Brentwood Academy, right? Is that right?

A. Yes.

Q. Okay. And it feeds to another school, Franklin High School I believe, is that right?

A. Yes.

Q. Now why not just -- are you permitted to write a letter to any of the students in Grassland Middle's eighth grade inviting them to come and talk about Brentwood

Academy?

A. No.

Q. Why not'?

A. Because if they have an athletic record that would be a violation of the recruiting rule. And I wouldn't know that.

Q. Does Brentwood Academy have any feeder pattern schools?

A. No.

Q. Does the TSSAA permit Brentwood Academy to write a non-**[441]** targeted letter to the students at Grassland Middle school, for example, that goes to all 20 students in the eighth grade, let's say, at Grassland Middle saying, Hey, we would like for you, we have Brentwood Academy, we would like you to hear our story, we would like you to come by, is that permitted?

A. Yes, it's my understanding.

Q. Do you have to have a mailing list to get that?

A. Yes.

Q. Where did you get the mailing list?

A. I guess we have never done that. I guess I would have to call the principal of Grassland Middle and ask him to send me the mailing list.

Q. And if the principal did not send you the mailing list, how would you get it?

A. I don't know. I would think that would be the only way you could get it was to call the office.

Q. Have you ever had a situation in which a public middle school principal turned down your request to come and visit the public school and tell your story to the students there in the eighth grade?

A. If I ever had -- repeat that, please.

Q. Yes. Have you ever tried to visit the public middle schools and tell your story?

A. No. **[442]**

Q. Why not?

A. Because I think they would not let me do that. I don't think they want their children going to Brentwood,

looking into another school besides the public school that they're zoned for.

Q. Now why would a school principal, middle school principal or middle non-public school principal not want its students to know everything about educational opportunities at the high school level?

A. Because I think they want to protect their group and only send those to the upper school and they are not very interested in having their children explore other options in the private sector.

Q. Ms. Brasher, in your experience, is personal contact between parents and the child and school officials an important factor in determining there right fit, the right match for school and child?

A. It's very important. Sometimes even in the admission process as we are talking about our mission of our school there have been parents to withdraw from the admission process because they didn't think it was a fit, that we had priorities that they weren't interested in, and we have had some after they hear more about our school and about our mission and what we're trying to do with children, they become more interested, and it's very important to have that **[443]** personal contact and discussion of details of each child.

Q. Does the recruiting rule allow personal contact with parents and students by school officials at Brentwood Academy?

A. If they call us, if the parents initiate the contact, yes.

* * *

[446]

* * *

Q. Did you read the spring practice letter?

A. Yes.

Q. Did you think the letter was harmful in any way to parents or kids?

A. No.

Q. Why not?

A. I thought it gave dates, times, that it was optional, and to call Coach Flatt if they had any questions. I thought it was a short, to the point piece of communication.

* * *

[447]

* * *

Q. All right. When Brentwood Academy sent the spring practice letter out to these boys, was it trying to recruit those students?

A. No. They were already enrolled in our school.

Q. What about the follow up telephone calls? Did you encourage Coach Flatt to make these calls in order to recruit these students to Brentwood Academy?

A. No. They were already coming. I encouraged him to call to clear up information.

* * *

[451]

* * *

Q. All right. Now does -- well, Brentwood Academy considers athletic ability and potential in deciding in making its financial aid decisions, does it not?

A. No. It's need based.

Q. Well, I understand that they have to qualify for it based on need, but then in deciding whether to actually give it, how much to give, Brentwood Academy considers the student's character, leadership, academic and/or athletic

abilities and potential, right?

A. No. It's need based. All of those things that you said are part of our mission, and when we admit students we're [452] looking at those areas, but as far as who gets financial aid or not, it's purely based upon the need of the family.

***

[Testimony of John Slaughter]

[476]

* * *

Q. I will show you what's been previously marked as Plaintiff's Exhibit 8. I ask you if that looks like a copy of the letter that Jake received?

A. It does.

Q. All right. Now what was -- did you see that letter when it came?

A. I did.

Q. What was your reaction to this letter when you saw it?

A. We were glad to get some contact with the football program there and we were really happy that he would get the opportunity to come to spring practice.

* * *

Q. All right. Did you think the letter was threatening? [477]

A. No, sir.

Q. Did you think it was harrassing?

A. No, sir.

Q. Did you think it was coercive?

A. No, sir.

Q. Did you think it was harmful in any way?

A. No, sir.

Q. The letter make you think that Brentwood Academy over emphasized sports?

A. No, sir.

Q. Did it make you think that Brentwood Academy treated athletes differently from non-athletes?

A. No, sir.

Q. Did you think the letter was inappropriate in any way?

A. No, sir. Like I say, we were glad to get the letter.

Q. Okay. Are you aware of other parents at Brentwood Academy who got the letter who thought it was inappropriate?

A. No. Not a one.

* * *

[Testimony of Joe Marley]

[489]

* * *

Q. Did you think the letter was inappropriate in any way, Mr. Marley?

A. I did not think it was inappropriate.

Q. Did you think it was threatening?

A. I did not think it was threatening.

Q. Harmful?

A. I did not think it was harmful.

Q. Coercive?

A. I did not think it was coercive.

Q. Did it influence your decision to send Ray Paul to Brentwood Academy?

A. It did not influence. We were already planning on sending him to Brentwood Academy.

Q. All right. Did you observe Ray Paul have a different reaction to the letter than yours?

A. No, sir.

* * *

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

[Caption Omitted in Printing]

TRANSCRIPT OF PROCEEDINGS – BENCH TRIAL

VOLUME III of Ten

BEFORE THE HON. TODD J. CAMPBELL,
U. S. District Judge

on December 13, 2002

* * *

[Testimony of George Pitts]

[513]

* * *

Q. * * * Would you state your name?

A. George S. Pitts the Third.

Q. And where are you employed, Mr. Pitts?

A. Brentwood Academy.

Q. How long have you been employed at Brentwood Academy?

A. This is my second year.

Q. What is your job at Brentwood Academy?

A. I'm the dean of students and the head men's basketball coach.

Q. All right. Before coming to Brentwood Academy, where were you employed?

A. Science Hill High School, in Johnson City, Tennessee.

Q. And you were at Science Hill for how many years?

A. 17.

Q. Okay. And in what capacity did you -- or capacities -- did you serve at Science Hill High School?

A. Initially head basketball coach and teacher, then [514] athletic director and head basketball coach and the last two years I was the principal.

Q. All right. Your CV indicates that as Science Hill basketball coach, in your 15 years, you had won some 460 games and lost 88, is that right?

A. Probably close. I guess.

Q. All right. I know you're a modest person, but I need to tell the court a little bit about your background.

In your ten years as head basketball, in your 26 years, actually your total basketball career, you have been head basketball coach actually at other high schools, right?

A. Correct.

Q. Now Science Hill High School is a public high school in Johnson City, is that right?

A. Correct.

Q. And before Science Hill High School, what other high schools have you served?

A. Young High School in Knoxville, South Young High School in Knoxville and Bearden High School in Knoxville.

Q. All right. And you started your coaching career at Young High School in Knoxville?

A. Correct.

Q. And that was in what year?

A. I started coaching in 1970.

Q. And you were at Young for how long? [515]

A. Six years.

Q. Okay. Then after Young, I guess you went to South Young, which is -- what is South Young?

A. They consolidated high schools, Young and South, and made a new school, South Young, and I was there five years.

Q. All right. And then you went -- you left there in 1980?

A. '81 I believe.

Q. '81. Where did you go in 1981?

A. Bearden High School in Knoxville.

Q. How long were you at Bearden High School?

A. Three years.

Q. Okay. You have won as head basketball coach some 15 district championships, that is right?

A. Yes, sir.

Q. And you have won nine regional championships?

A. Yes, sir.

Q. 12 sub-state championships?

A. Yes.

Q. All basketball?

A. Yes.

Q. Boys' basketball?

A. Yes.

Q. All right. Won three state championships?

A. Yes.

Q. Two state championship runner-ups? **[516]**

A. Yes.

Q. And your 1990 triple A team won 37, lost one, and was ranked 15th in the USA Today poll, is that right?

A. Yes.

Q. In 1994 your triple A state championship state basketball team won 37, lost two, and was ranked eleventh in the final USA poll, is that right?

A. Yes.

Q. In 1995 your triple A state champions won 37 games and lost three, was ranked seventh in the final USA poll, is that right?

A. Yes, sir.

Q. Are you a career ladder level three teacher?

A. Yes, sir.

Q. And what is that, Mr. Pitts?

A. Well, because of experience, going through different procedures with the state, you could be determined as career ladder one, two or three, and I was three. You know,

basically all it meant was I got a little more pay --

Q. All right.

A. -- with it.

Q. In 1999 were you inducted into the Knoxville Interscholastic League Hall of Fame?

A. Yes, sir.

Q. In 2000 were you inducted into the Northeast Tennessee **[517]** Hall of Fame?

A. Yes, sir.

Q. Now, Mr. Pitts, let's turn a moment to your experience at Science Hill High School, in Johnson City.

And I want to use those as an example here. Did Science Hill High School have a feeder school, feeder school from a middle school?

A. Yes, sir.

* * *

[518]

* * *

Q. Have you operated, worked under this rule for all your years in high school coaching and as a teacher and principal?

A. Yes, sir.

* * *

[519]

* * *

Q. Okay. Then down to number five.

A. Any contact between a member of the coaching staff or representative of the school and respective student athletes prior to, during or after contest at elementary

schools, middle schools and junior high schools, except when it's a definite pattern.

* * *

[520]

* * *

Q. Liberty Bell was the feeder for Science Hill?

A. Correct.

Q. All right. As the head basketball coach, did you attend any athletic contests at Liberty Bell Middle School?

A. Yes, sir. Several.

Q. Okay. And did you communicate with, talk with prospective student athletes, either during, prior to, during or after the contest at these middle schools? Did you communicate with them?

A. Yes, sir.

Q. Okay. How did you communicate with them?

What did you say to them, just in general?

A. Nice game, just talked with them. And most always it was after the game.

Q. Okay. Did you know these basketball players, Coach Pitts, at Liberty Bell, that were on the middle school team?

A. Yes, sir.

Q. How did you know them?

A. Well, when I was basketball coach at Science Hill I knew -- I knew kids, you know, all through the system, a lot from coming to our camp in the summer, and I would get to know them. I would go watch them play whenever, an elementary school, I would go watch them play, get to know [521] them, whenever, middle school, I would watch them play, I would talk with them.

So, you know, there's a lot of communication between myself and those kids all the way up through their elementary and middle school years.

* * *

[522]

* * *

Q. Right. Did you feel any restrictions imposed upon you by the recruiting rule in communicating with these players for Liberty Bell Middle School while you were there?

A. No, sir.

* * *

[523]

* * *

Q. Did you regard the recruiting rule as inhibiting, preventing or hindering your communication as the head basketball coach with the parents of any of these students at Liberty Bell Middle School during the contests or after the contests?

A. No, sir.

Q. Did the TSSAA ever accuse you of any -- using undue influence in your communications with students or with parents at Liberty Bell Middle School?

A. No, sir.

Q. If the students came up to you after the game and said, Coach Pitts, I have a question or I want to talk with you about Science Hill, were you permitted freely under the recruiting rule to talk with that child?

A. Yes, sir.

* * *

[524]

* * *

Q. Were you prohibited under the recruiting rule while you were at the contest from initiating communication with either the parents or the students?

A. No, sir.

* * *

[525]

* * *

Q. All right. Did you attend those elementary school games at the park and rec or at the Boys' Club?

A. Yes, sir.

Q. When you went to those games, did you have the opportunity to watch the games and observe these young boys playing basketball?

A. Yes, sir.

Q. Did you communicate with the boys either before, during or after the game?

A. Sometimes.

Q. And did you communicate with the parents either before, during or after the game?

A. Sometimes.

Q. Did you feel any -- bad question. Rephrase the question.

Were you restricted in any way by Section 21 of the recruiting rule in your communications with the players or the parents at the Boys' Club games? **[526]**

A. No, sir.

Q. Now you mentioned you also had communication with these kids at camps. What do you mean by that?

What kind of camps did you have?

A. We had a basketball camp for kids in grades K through eight in the summer for one week, for 15 years or so.

Q. All right. Who attended that basketball camp?

A. The vast majority of them were kids that were in the Johnson City School System.

Q. Were many of them in the elementary schools that would feed into Liberty Bell and ultimately into Johnson City? Into Science Hill?

A. Most of them.

Q. Okay. And did you get to talk with and communicate with the children and the parents at those summer camps?

A. With the children a lot, with the parents some.

Q. These summer camps are not prohibited in any way by the TSSAA recruiting rule, are they?

A. No. sir.

* * *

[527]

* * *

Q. Okay. Could you talk with the kids that were not in the feeder pattern?

A. Yes, sir.

Q. And did you talk with the kids that were not in the feeder pattern?

A. Yes, sir.

Q. Did the TSSAA ever raise any objection to your talking with these kids that were not in the feeder pattern at your summer camps?

A. No. sir.

* * *

[528]

* * *

Q. Eighth grade students, okay? The Liberty Bell eighth grade students, you wanted to invite them to spring practice in basketball. How did you do that while you were at Science Hill?

A. We would, or I would contact the principal at Liberty Bell, set up a meeting, go over, have the meeting with the kids, tell them when we would have spring practice, give them a little calendar-type memo that would tell them we were having spring practice, when we were going to summer camp, and then those kids that had had a physical were able to come to spring practice.

Q. Okay. Did the principal at Liberty Bell ever object to your coming to meet and holding a meeting about spring practice? [529]

A. No, sir. As long as we worked into when it was good for the school.

* * *

Q. All right. And how were the students invited to the spring practice meeting there at Liberty Bell Middle School?

A. Any boy interested in playing basketball at Science Hill High School.

Q. Was invited?

A. Yes, sir.

Q. Okay. And so the boys would show up and you, the coach, would you have any assistant coaches with you?

A. Usually not.

Q. Just you and the boys? You have to say yes or no.

A. Yes.

Q. Mr. Spence is taking it down.

Were there any parents at that meeting?

A. No, sir.

Q. What went on generally in that meeting? What communication went on?

What did you tell them and what did the boys tell [530] you?

A. Basically I would just tell them that we would have spring practice on such and such dates, that any boy that wanted to come to that could if they had a physical, we would look at them, see if we wanted to take them to camp with us. If we didn't take them, they could come back in the fall and try out again. If they didn't come in the spring they could come in the fall and try out again. Talk a little bit, encouraging them to do what they are supposed to do in school, those kind of things.

Q. All right. So there was a lot of information passed on about when things were going to happen and what was going to happen and what your expectations were, is that right?

A. Yes, sir.

* * *

[532]

* * *

Q. Now did the TSSAA at any time ever notify you that you were prohibited or hindered or barred or in any way in conducting these spring practice meetings on the campus of the middle school?

A. No, sir.

Q. When these Liberty Bell students were at this meeting, were they enrolled in Liberty Bell Middle School or were they enrolled in Science Hill?

A. Liberty Bell.

* * *

[534]

* * *

Q. There is a -- are you familiar with -- with the phrase initial contact under the recruiting rule?

A. Yes, sir.

Q. Okay. Was any of this face to face communication at the school's spring practice meeting, did the TSSAA ever take the position with you that this was a violation of the initial contact rule?

A. No, sir.

Q. You weren't even -- because you were in the feeder pattern, you weren't even under the initial contact rule with respect to the boys who were in the feeder pattern, right?

A. It's my understanding that I wasn't.

Q. All right. But if there were basketball players that [535] were outside the feeder pattern, you were restricted in contacting, making initial contact with those boys, weren't you?

A. Yes, sir.

Q. So that if there were students at another middle school not in the feeder pattern, you could not initiate contact with those students about the basketball program at Science Hill, could you? Under the recruiting rule?

A. That's correct.

* * *

[536]

* * *

Q. Did the parents have to sign any paperwork indicating to Science Hill that their child was registered for the class and was going to be coming in the fall or planned to come in the fall?

A. Yes, on the -- well, on the schedule, the four-year plan, there was parents' signatures.

Q. All right. Why do you have to have the parents' signature? It's fairly self-evident, but I want to make it clear in the record.

Why couldn't the child just sign I'm coming to Science Hill?

A. Because we want to make sure that the parents know what the courses the child's going to be taking.

Q. And these are minor children anyway, aren't they?

A. Yes, sir.

Q. You had to have a signature of an adult on the registration form, is that right?

A. Yes, sir. **[537]**

Q. And that registration is done in the spring?

A. Yes, sir.

* * *

[538]

* * *

Q. When you came down, did you try to come to the last game of the season for the middle school basketball team?

A. Yes, sir.

Q. And when you came to that game, or that meeting, did you try to talk with the players after the game?

A. Yes, sir.

Q. And what was the purpose of that talk with them?

A. I would go into the dressing room after the coach had talked with them, the coach knew I would come in, and just congratulate them on their year, and just tell them I look forward to them coming to Science Hill, that we would have a meeting in the spring and talk about the next year.

Q. And that Science Hill meeting would be that spring practice meeting that we talked about, is that right?

A. Yes, sir. Yes, sir.

* * *

[539]

* * *

Q. Okay. Now did Science Hill -- how did you understand that rule?

Did you understand -- what was the meaning of that rule as far as Science Hill's ability to offer free tickets to students in their feeder pattern?

A. We were able to.

* * *

[541]

* * *

Q. Okay. Did the TSSAA rule govern, as you understand it, grades below seventh grade, sixth grade and below?

A. No, sir.

Q. Do you know whether or not Science Hill High School was permitted to offer free tickets to football players for football games at the feeder middle -- at the feeder middle schools?

A. We did pretty much the same thing.

* * *

[542]

Q. Did y'all ever have the TSSAA ever raise any questions about the ticket policies at Science Hill High

School?

A. No, sir.

* * *

[546]

* * *

BY MR. BARFIELD.

Q. Has your school, Science Hill, ever been contacted by the TSSAA to object in any way to allowing the teams in to the games free of charge in the feeder pattern but not allowing all students in?

A. Not to my knowledge.

* * *

[Testimony of Ellis Haguewood]

[588]

* * *

Q. Let's talk about your experience at MUS first.

Can MUS live under the recruiting rule with enrollment as defined by the TSSAA being the date of matriculation plus three?

A. No independent school does.

Q. Why is that?

A. Technically. Well, --

Q. Why is that?

A. Well, recruiting rule forbids any contact, not just initial contact, with a coach at that school before the student is enrolled. All schools have summer sports camps, at least all independent schools have summer sports camps that are run by the coaches at that school. All independent schools

have preseason football practices at which the coaches actually contact the students. And those technical violations are not enforced because they would not be enforceable.

I mean they are just -- it wouldn't make any sense [589] not for -- for a football coach or a basketball coach or a soccer coach not to be able to talk to a kid in his summer camp who he will coach later that year because that student is enrolled. Yet the rule clearly states he can -- can have no contact with that student according to the definition of enrollment.

* * *

[626]

***

Q. Okay. So if you want to influence a tuba player you have got, let's say there's an eighth grader out in the city of Memphis somewhere who is just an absolute prodigy of a tuba player and you have learned about this tuba player, and you want to influence this tuba player to come to MUS because of their talent, their musical talent and what they will bring to the school in just musical talent. That does not implicate the prohibition against undue influence for athletic purposes, does it?

A. No, sir. But if that tuba player were also great at basketball, you know, we might have an issue.

Q. You might have an issue?

A. A concern.

***

[630]

***

Q. All right. There's no mention of academics or other

extracurricular activities, it's really just about sports, right?

A. It's about a specific incident, why would I put something in there about academics? It's about spring practice.

***

[Testimony of Michael Hammond]

[684]

***

Q. Okay. Now during the hearing in Fayetteville, was there any evidence presented by the TSSAA?

A. No, sir.

Q. It's true that you and the other Board of Control members did not get any TSSAA evidence until you had adjourned to the deliberations phase?

A. I think that's correct.

Q. Do you know Gene Menees and Bernard Childress?

A. Yes.

Q. They were there that day, were they not?

A. Yes, sir. Yes, sir.

Q. Did they say anything? Did they say a word at all about the violations or the investigation or anything during the hearing phase and before the deliberation phase?

A. No, sir. Not that I remember.

Q. So is it accurate that Brentwood Academy presented its evidence that day without hearing the TSSAA'S evidence?

A. As far as I remember.

Q. Is that a yes?

A. I think that's a yes.

Q. All right. Now after the Brentwood Academy presented its defense, were there deliberations held?**[685]**

A. Yes, sir.

Q. Were these deliberations in executive session?

A. Yes, sir.

Q. And by executive session, that meant that it was closed to the public?

A. Yes, sir.

Q. And Brentwood Academy and its representatives were not allowed in the deliberations, is that right?

A. That's correct.

Q. You and Mr. Carter, Mr. Hammond, Mr. Dunn and Mr. Rogers all participated in the private deliberations?

A. Yes, sir.

Q. And you served as an advisor to Mr. Carter in those deliberations, is that right?

A. That's correct.

Q. And Mr. Dunn and Mr. Rogers were also advisors to Mr. Carter in that deliberations phase?

A. That's correct.

Q. Now there were also some other TSSAA persons who participated in the deliberations, were there not?

A. Yes, sir.

Q. Mr. Menees and Mr. Childress both participated in the deliberations?

A. Yes, sir.

Q. Now was Mr. Larry Taft also present?**[686]**

A. Mr. Taft was in and out. He really wasn't participating I wouldn't think.

Q. All right. Was he in for some of the deliberations?

A. I remember him coming in to take some orders to go get food was what I really remember hearing him doing. And I don't remember how long he was there. It started getting late.

Q. What was Mr. Taft's job at TSSAA?

A. He's sports information director.

Q. All right. Now what were Mr. Menees' and Mr. Childress's roles in the investigation?

A. To give us some information about things that they found in the investigation.

Q. Were they part of the investigation team that

investigated these allegations of illegal recruiting or improper recruiting by Brentwood Academy?

A. That's the way I understand it.

Q. Now did Mr. Childress and Mr. Menees or Mr. Menees present the TSSAA's evidence during the secret deliberations?

A. Yes.

Q. And the investigators during the secret deliberations, did they answer any questions?

A. Probably.

***

[687]

***

Q. * * * Did the investigators during the secret deliberations accuse Brentwood Academy of violations of the recruiting rule?

A. I wouldn't call it accusing. I would call it presenting us with information of what they found about Mr. King and his relationship with one of the students that was in **[688]** question.

Q. All right. They were presenting you the evidence that they had retrieved in their investigation?

A. Yes, sir.

Q. Okay. Now everything that you have heard about Bart King, you heard during the secret deliberations, right?

A. Yes, sir.

***

[691]

* * *

Q. Okay. Then what evidence did you have to support the assertion that Mr. King acted like a scout for Brentwood Academy?

A. The information that was presented in the deliberations process.

* * *

Q. It is true that after the Fayetteville hearing the final decision, final authority for the decision in Fayetteville rested on the shoulders of Mr. Carter?

A. Yes, sir.

Q. All right. And then the consensus decision that was arrived at in Fayetteville was embodied in a letter dated August the 14th, is that right, from Mr. Carter to Brentwood Academy?

A. Yes, sir.

[693]

* * *

Q. Going back to Fayetteville just a minute, for one further question, during the deliberations there among you, and the other Board of Control members, was there a consensus in the room that Mr. King had served as a scout for Brentwood Academy in connection with the recruitment of Jacques Curry?**[694]**

A. I would probably characterize it that we felt like he had tried to influence Jacques Curry, yes.

Q. All right. Do you recall whether there was any specific evidence that Mr. King had promoted Brentwood Academy to Mr. Curry?

A. I don't recall.

Q. Okay. Now going back to Music City Sheraton for the hearing on the 23rd of August. Again, the situation was similar to Fayetteville, there was an open hearing for the

public and everybody to participate in at first then the Board of Control and TSSAA officials adjourned to executive session for confidential deliberations, is that right?

A. Yes, sir.

Q. Okay. Now I'm going to talk about the public hearing part of it first, as you a few questions about it.

Now in the public hearing part of the proceeding at the Music City Sheraton on August 23rd, 1997, did the TSSAA put on a case against Brentwood Academy?

A. No, sir.

Q. Now at that hearing that day, Brentwood Academy and their lawyers and their witnesses were the ones that spoke at the hearing, is that right?

A. Yes, sir.

Q. And then, as you said, the board then went into executive session to deliberate?**[695]**

A. Yes, sir.

Q. Now the Brentwood Academy representatives, their lawyers, the school officials and others were not allowed to be present in the deliberations, is that right?

A. That's correct.

Q. Now who was present in the deliberations, the secret deliberations at the Music City Sheraton on August the 23rd? Were you there?

A. Yes, sir.

Q. Okay. Was Mr. Dunn there?

A. Yes, sir.

Q. Was Mr. Rogers there?

A. Yes, sir.

Q. Was Mr. Carter there?

A. Yes, sir.

Q. Was Mr. Menees there?

A. Yes, sir.

Q. Was Mr. Childress there?

A. As far as I remember.

Q. All right. And were the other board members all

there?

A. Yes, sir.

Q. Now six of the nine Board of Control members had not been at the hearing in Fayetteville, correct?

A. That's correct.

Q. Now how did they hear the evidence against Brentwood **[696]** Academy?

A. Same way we had heard it in Fayetteville.

Q. How is that?

A. That it was presented by the staff who had conducted the investigation.

Q. Did Mr. Menees and Mr. Childress again present the case just as they had presented it in Fayetteville?

A. As far as I remember.

Q. Now did Mr. Carter participate in the deliberations?

A. Yes, but I think in a more passive role because our roles had shifted at that one, at that hearing the Board of Control was to make the decision.

Q. Right. Did he advise and answer questions from Board of Control members?

A. Yes.

Q. Did he participate in the communications and the discussions about these charges?

A. As far as I remember.

* * *

[697]

* * *

Q. Don't remember. Okay.

Now was there -- do you recall evidence presented during the deliberations at the Music City Sheraton about Bart King, Jacques Curry and Brentwood Academy?

A. I think so.

Q. Was Bart King discussed in that? In those

deliberations?

A. As far as I remember he was.

* * *

Q. And you could not -- there was not enough evidence to show a connection between Bart King and Brentwood Academy?

A. Yes.

Q. In the final hearing, that part of the findings was dropped?

[698]

A. That's the way I remember it.

Q. All right. Was this decision on August the 23rd reached by consensus?

A. I think so.

Q. Do you remember whether Bart King testified at the hearing in Nashville, at the Music City Sheraton?

A. I don't remember him testifying.

* * *

Q. Does Brentwood Academy have a feeder school?

A. No, sir.

[718]

* * *

Q. Okay. Now let me ask you this. Where on the scale -- we were talking about high influence, low influence, no influence. Where on this scale, in your mind, is the words undue influence? Where does it fall?

A. Pick a number?

Q. Pick a number.

A. Two or three maybe. You know, once you start getting very far from the bottom of that scale, you know, it starts exerting influence and then when you start talking

about undue influence you are getting into a judgment situation.

Q. Okay. What do you mean by a judgment situation?

A. In that you would have to look at all of the factors involved and how much influence you think it would exert.

Q. And would one of those factors include the content of [719] the spring practice letter?

A. Yes, sir.

Q. And what information was communicated in telephone calls from Coach Flatt to the parents?

A. All of those things, the fact that a call was made, who drafted the letter, who it's sent to, the contents of the letter, all of those things I think had to be considered together. And as we deliberated, you know, you could talk about each individual thing, but then you had to come back to the total amount of influence.

* * *

[726]

* * *

Q. Let me ask you about this. As a member of the Board of Control in your final appeal there at the Music City Sheraton, you and the other board members had to judge the content of this letter to determine whether there was undue, in part, to determine whether there was undue influence under the recruiting rule, isn't that true?

A. Yes.

* * *

[731]

* * *

Q. All right. Just one second, Mr. Hammond, I'm just about finished.

Have you ever heard public school coaches or principals say at the TSSAA meetings that you attended that independent schools were taking their students?

A. Just in conversation?

Q. Yes.

A. Yes.

Q. Do public school officials feel in some way due to the feeder pattern arrangement and so forth that the kids in their feeder pattern somehow belong to them?

A. Unh-unh.

* * *

[Testimony of Milbrey Ganick]

[741]

***

Q. All right. What happened after you got those letters?

A. Chandler decided that if MBA thought he was wait list material he would rather go to BA, so he went to BA.

Q. All right. So you decided to go to BA.

Did you fill out an enrollment contract?

A. We actually filled out -- we received the acceptance letter, and I believe it included a contract that we had to fill out and sign, and we did that. And attached a check with it and sent it back to Brentwood Academy sometime the early part of March, I believe.

Q. All right. And after you sent in this enrollment contract and the deposit check, what did you understand your relationship with the school to be?

A. Well, we were committed to go into that school by signing that contract.

[742]

Q. All right. Did you all continue to consider Montgomery Bell Academy after that?

A. No, sir.

Q. All right. After you sent in the enrollment contract, did you receive any other information from the school?

A. We did. We started to get some information sometime in the spring. We received a letter from Coach Flatt inviting us to attend football practice, spring football practice, but we also received information about the upcoming year, maybe, if I recall correctly, it was a summer reading list, maybe the schedule for the following year, events over the summer that maybe we were a part of.

Q. All right. And you said you received a letter from Coach Flatt?

A. That's correct.

Q. All right. Let me show you No. 8, please.

Ms Ganick, what you have been handed is a copy of an exhibit that's previously marked as Plaintiff's No. 8. It's also on the screen over here across the way.

Does that look like the letter you received from Coach Flatt?

A. Yes, it does.

Q. All right. What was your reaction to this letter when you received it? Your family received it?

A. Well, actually my son received it first. I happened to [743] be traveling for my job during that year and was out of town most of the year, and he called and said, Mom, we got a letter from Brentwood Academy asking me if I was interested -- if I wanted to participate in spring practice.

And I said, Well, do you want to?

He said, Well, yeah. I guess so.

So somewhere along the way, and I don't remember if I received a phone call from Coach Flatt or if I called him, but at some point there was some question as to whether or not Chandler could do that because of other sports, obligations for Ensworth, he played baseball and also ran track for

Ensworth in the eighth grade year. And my conversation with Coach Flatt was, no, absolutely, his first priority is what he is obligated to do at Ensworth. If he has time, he can participate, just if he wants to. That was the conversation.

Q. All right. So you understood from that that was optional?

A. Totally. No question about it.

Q. All right. Did you think this letter was inappropriate in any way?

A. Well, no. I mean it kind of was -- it made you start to feel like maybe you were going to be a part of the school somewhere along the way, come to the point we hadn't received a lot, he started getting some things about the **[744]** same time, but no, it was just sort of nice to hear from somebody.

Q. I guess it's safe to say then you didn't think the letter was coercive?

A. Not at all.

Q. Or harassing?

A. Not at all.

Q. Or threatening?

A. Not at all.

Q. Did you think it was inappropriate in any way?

A. I didn't. I didn't feel like it was. I mean I didn't know what to expect, but it certainly didn't make me feel uncomfortable getting it.

Q. Did this letter influence you to send Chandler to Brentwood Academy in any way?

A. No. By that time I had -- we had already committed to Brentwood Academy. There was no question in my mind that's where we were going.

Q. Did you observe Chandler have a different reaction to this letter than yourself?

A. No.

* * *

[765]

* * *

Q. That was one of the bits of information you got was a letter from Coach Flatt?

A. It was. We were thrilled to get it because anything we got from the school that gave us information about, you know, what we were supposed to be doing as new students in the school was helpful.

* * *

Q. I think you said you were glad to get this letter?

A. Very glad to get the letter, yes.

Q. Did you think the letter was inappropriate in any way?

A. No. [766]

Q. Did you think it was harmful?

A. No.

Q. Did you feel coerced or threatened by it?

A. No.

Q. Okay. Did the letter influence your decision to send Dru to the school?

A. No. We were already committed to go to the school. We thought that -- to me it still does, looking at it again, standard form letter, we were committed to the school at that point. We assumed that went to all in-coming freshmen.

Q. Did Dru see this letter?

A. To my knowledge, he probably did.

Q. All right. Did you ever observe him have a different reaction to the letter from yours?

A. No. We just looked at it as, you know, information coming from the school, which was actually long over due.

Q. All right. Did you ever talk to any Brentwood Academy parents who got the letter who thought

differently than you did about it?

A. No, no one ever said anything to me about it.

Q. Now when you got this letter, what was your understanding about whether spring practice was mandatory or optional?

A. Well, it's pretty clear it was optional. Dru was at Brentwood Middle at the time, and I can't remember whether **[767]** he was participating in a sport at that time. I know Dru participated in a few sports at Brentwood Middle but I don't know if he was at the time the letter arrived. But it's real clear to us it was optional. If you wanted to go, do. In fact, I don't remember the exact verbiage, I guess I could look at it up there, but seemed to me like it said something if you're currently involved in something else, kind of the impression, stay with your current commitment.

* * *

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

[Caption Omitted in Printing]

TRANSCRIPT OF PROCEEDINGS – BENCH TRIAL

VOLUME IV of Ten

BEFORE THE HON. TODD J. CAMPBELL,
U. S. District Judge

on December 16, 2002

* * *

[Testimony of Michael Obel-Omia]

[788]

* * *

Q. All right. Now is it necessary for independent schools like Roxbury-Latin to actively seek out and recruit students like you have described?

A. Yes, sir.

Q. Why is that?

A. Because we're well known in certain communities. If you go to certain communities in Boston, they know Roxbury-Latin. You say Roxbury-Latin, that means something to those families.

But Roxbury-Latin is very much dedicated to a diverse student body. We embrace diversity. We have embraced it since the first day we opened on August 30th, 1645. John Elliott, the founder of the school, was vilified for hosting a Jesuit priest in his home. We have had diversity since the very beginning. He actually died, John Elliott, in the service

of teaching a black slave how to read. So we have valued diversity from the very beginning of our creation.

And so in order to find that diversity, to have a diversity, I have to go out and find students. I have to go out and tell them what Roxbury-Latin is. There are certain communities near us that know Roxbury-Latin exceptionally [789] well.

Q. What kind of communities are those?

A. Those are rather affluent communities. Right around Roxbury-Latin, Roxbury-Latin is in West Roxbury, a part of Boston, southwest corner of Boston, and it's close to a number of communities, Needham where I live, Wellesley, Weston, that are very affluent. By every measure you can imagine they are affluent and these communities know us well. There are communities right to our north, Roslindale is one of the neighbors of West Roxbury, I went to an admissions fair in October and literally this place where I went, this Catholic school admissions fair, that school was literally a mile and-a-half from Roxbury-Latin and I met people that even -- they had never heard of the school. They live within two miles of the school, don't know it.

These are families that typically are not from higher socioeconomic families. So I have to go out there and introduce Roxbury-Latin to them, let them know that this is a wonderful school, let them know that we are eager to have them at our school.

* * *

[795]

* * *

Q. Well, you talked a little bit this morning about how there's a difference in the socioeconomic level of groups that knew about you.

A. Yes, sir.

Q. How do you go about reaching into lower

socioeconomic groups to get them to become interested in the school?

A. Well, first thing I do is go to the schools. As I said, the public schools, and I'll go to the schools, I will meet with the kids and more often than not the kids who are at a Boston public school, even in an advance work class, come from lower socioeconomic classes. That's the first way that I will do it.

* * *

A third way is through word of mouth. For instance, just last week a former guidance counselor at a local public school, who's retired, retired for three years, he telephoned me and said, Michael, I have these two great families in Brockton. Brockton is a severely depressed, **[796]** economically depressed part of Boston, city of champions, very, very poor area. And these are great, these are great kids.

So I sent out the form letter to them, to the families, and at the bottom I wrote, Milton Hagan's suggested you are great families. I'm hoping I have a chance to see you in the application process.

* * *

[800]

* * *

Q. Well, in your experience, what is the best way to reach out to lower socioeconomic groups and families like the type you're looking for?

A. Through personal contact. It's my going out and visiting these families, visiting their schools, seeing them, talk to them, explaining who we are, sharing Roxbury-Latin's story. That is the most effective way. As I noted on the cards that we have at open house, most kids that come,

the majority of them come, check off that they met me. That's what changed their life.

* * *

[810]

Q. Okay. I'm showing you what's been marked previously as Plaintiff's Exhibit 8, which is a copy of that letter. In your opinion, is this letter inconsistent with the type of communications that Roxbury-Latin would send out to incoming students?

A. No, sir. It's not inconsistent. It's consistent.

Q. All right. You said you were familiar with the recruiting rule?

A. Yes, sir.

Q. Now do you have to comply with a rule like this in your work at Roxbury-Latin?

A. Well, we do have rules, yes, we do have rules with recruitment, we do, but -- yes, we do.

Q. All right. Is it an undue influence standard like this?

A. No, it is not.

Q. All right. Well, if you had to operate under this type of rule, would you be able to perform your job?

A. No, I would not.

* * *

[817]

***

Q. Do other independent schools, independent secondary schools allow Roxbury-Latin to come in and tell Roxbury-Latin's story?

A. Other independent schools?

Q. Yes.

A. Yes.

Q. They allow other independent secondary schools that have grades nine through 12?

A. No. I go to independent schools that usually finish in eighth or ninth grade. I do go into schools that finish in ninth grade and do recruit their eighth graders.

Q. And certainly Roxbury-Latin does not allow Boston area public schools to come in and talk to its eighth graders to educate them about educational opportunities available at public schools, does it?

A. They choose not to. There's no recruitment by them. Boys who live in the Boston area who attend Roxbury-Latin who're interested in Boston public schools, I will facilitate their looking at those schools. A couple years ago one boy who's now a sophomore at Roxbury-Latin was wondering is this the right match for him, so he initiated **[818]** the Boston public school piece, he was wanted to go to Boston Latin, which is a public testing school, and I did everything possibl to help him with that piece. But we were blessed that he stayed with us, so --

Q. Does Roxbury-Latin invite public schools to come in and talk to its kids?

A. No, but they choose not to come. They don't go out and do recruiting.

***

[Testimony of James Guthrie]

[842]

* * *

Q. Well, how do schools go by increasing diversity, in your experience?

A. In my experience it doesn't happen accidentally. It happens purposely. Sometimes we redraw attendance boundaries in public school districts to encourage diversity. That's a policy lever that can be pulled.

But in the instance of non-public schools, they don't have an attendance area which can be redrawn. They have to take more affirmative steps to enhance diversity, and maybe that's advertising, as was explored in questions previously this morning, but in my experience, frankly, it's almost door to door salesmanship. This is Fuller Brush salesmanship, this is knocking on doors, going in to low income neighborhoods, finding out where under-represented students live or play, talking to their parents, trying to get into their churches, trying to get into the social activities in which they engage, and explain to them that there are choices from which their children might benefit.

Q. That sounds like recruiting.

A. It is recruiting.

Q. Well, what is the best way -- maybe you have already answered that -- but what is the best way, in your opinion, to reach out to lower socioeconomic groups?

A. Well, in my experience I certainly like advertising, [843] whether it be newspapers targeted for particular geographic areas, I might like television ads, I like -- I like role models, be they Yo-Yo MA or Michael Vick or whatever, I like role models. That can be made attractive to students. I even like websites, which is wonderful if you have a computer at home. If you don't, so much for a

website.

But there's very little that can take the place of an impassioned recruiter such as I took the prior expert to be. There's very little that can take the place of that kind of committed personal contact, going out face to face, pressing the flesh and explaining to parents what's available to them.

Q. Well, why is that kind of personal contact necessary in order to reach those groups?

A. Well, the mass media isn't as accessible to them, certainly the web isn't as accessible to them, and much of their social fabric is built around a particular set of interactions and information flows that frequently don't include the mass media.

* * *

[Testimony of James Hulon Watson]

[897]

* * *

DIRECT EXAMINATION

BY MR. BARFIELD:

Q. Mr. Watson, you might make yourself comfortable. You need to speak into the microphone, not too close, not too far away, so that we can hear you well. There's water there in case you need it or would like it.

Mr. Watson, I'm going to proceed while they're working on this little technical issue. Would you state your name, please, sir, for the record?

A. James Hulon Watson.

* * *

Q. * * * What is your job, Mr. Watson? **[898]**

A. Presently I'm superintendent of schools for

Rutherford County.

Q. And you're about to retire or have retired or close to retirement?

A. December the 31st.

Q. Of this year?

A. Of this year.

Q. All right. How long have you been superintendent of schools in Rutherford County?

A. Five, five and-a-half years.

Q. What did do you before that?

A. I was principal of Riverdale High School.

Q. And where is Riverdale High School?

A. Rutherford County, Murfreesboro.

Q. All right. How long were you principal of Riverdale High School?

A. 18 years.

Q. And where were you educated originally?

A. I have a bachelor's from Middle Tennessee State University, and I have a master's from University of Virginia, an EDS from MTSU.

Q. All right. And now in 1996, late 1995, I guess, there was a football game at the Clinic Bowl at Vanderbilt University, is that right?

A. That's correct. **[899]**

Q. Who played in that football game?

A. Riverdale and Brentwood Academy.

Q. All right. Was that a big game?

A. Absolutely.

Q. Was it for the state championship?

A. Absolutely.

Q. And did Brentwood Academy prevail in that game?

A. They did.

Q. All right. When you left that game, how did you feel?

A. Normally how you feel when your team loses.

Q. All right.

A. That's sort of, you know, certainly not on a high. Sort of a low point.

Q. Your deposition, some years ago, May 12th of 1998, you told us you were quite upset with the loss, is that right?

A. That's correct.

Q. Why were you upset with the loss of the game?

A. Well, normally when you lose a game of that magnitude, whether it be a district game or a regional or a state championship game, as a principal of the school because you have so much involvement with the students and coaches and the community, it certainly upsets you.

Q. All right. Was the Murfreesboro community behind the Riverdale team that year as they pursued the game?

A. Yes, they were. **[900]**

Q. Was there a big crowd at the game?

A. Best of my recollection, yes.

Q. Now after that game, in the early part of January of 1996, what steps did you take, if any, to do something about the relationships between the public and private schools and the TSSAA?

A. I called approximately 25, 26 schools and met at Riverdale High School with the intent of presenting to the TSSAA to separate private and public schools.

Q. Okay.

A. As far as athletic competition is concerned.

Q. All right. So did you propose a complete split for athletic competition for both regular season and for the playoffs?

A. Yes.

Q. So your proposal was to have the private schools play themselves for regular season and championships and then have the public schools play themselves for regular seasons and championships?

A. That was the original proposal, yes.

Q. Okay. Now did you just dream this up overnight or had this idea been percolating around for prior years?

A. Well, other principals probably proposed that same idea, so from that standpoint probably wasn't new but it was new for me.

[901]

* * *

BY MR. BARFIELD:

Q. Now, Mr. Watson, this is a copy of a letter with apparently your signature dated January the 5th, 1996, to [902] Mr. Mike Asquith, is that right?

A. That's my signature, yes, it is.

Q. All right. Can you identify this as a true and accurate copy of the letter that you September to Mr. Asquith?

A. That's correct, it is.

Q. All right. Did you sent this letter also to some 25 or other public school officials?

A. Yes, I did.

Q. Now, Mr. Watson, I want you to read this letter to me into the record and then ask you some questions as we go along, all right?

* * *

Q. You may start reading with the first paragraph, if you would, Mr. Watson. [903]

A. Time has come for public school administrators to actually take a stand about the fairness of public school and private school athletic decisions. The student -- the school -- excuse me. The school, students and community should have the right to compete on an equal basis. A winning team and a state championship brings a sense of pride to the community and the school that cannot be described.

* * *

[Testimony of Mickey Dunn]

[989]

* * *

Q. Okay. Let me just call up page 25, lines 18 through 25. This is from your deposition.

Question: Do you remember any particular parts of the discussion, who said what, during that deliberation to make you conclude that Mr. King had been involved in offering Jacques Curry some illegal inducements?

Answer: We asked Mr. Childress what Jacques Curry told him, and if I recall Jacques had told him that Mr. King had indicated that he had arranged transportation for him.

A. I recall that.

* * *

[990]

* * *

Q. Now in choosing what evidence to give greater weight to, is it fair to say that in talking to Mr. Childress and an investigator whom you knew and I presume you respected that you would give his testimony greater weight than a sworn statement by someone else just on paper?

* * *

[991]

* * *

THE WITNESS: Yes. I mean -- if you're talking about anything specific, I guess you would have to ask me a specific instance, but as far as just in general, I mean if -- if I had information from, you know, that maybe Mr. Childress didn't have, it would make a difference in how I viewed it, but I mean if it was two different sides to one particular story, then I would think I would give credence to Mr.

Childress, yes.

* * *

Q. All right. Now were Bart King's actions a factor in the Fayetteville decision?

A. Sir?

Q. Were Bart King -- was Bart King -- did he play a factor in the Fayetteville decision? **[992]**

A. I remember him being, you know, a part of what all we heard, yes, sir.

Q. All right. And did he actually factor into the ultimate decision you all made?

A. I remember the name. I'm not -- I don't remember exactly what role he played. I remember that he was a part of it. I don't remember exactly what role he played.

* * *

[1009]

* * *

Q. Now as part of your August 23rd sanctions, Brentwood Academy also was found to violate the recruiting rule when Coach Flatt sent out what's now referred to as the spring practice letter to students who signed an enrollment contract with the school. Are you familiar with that?

A. Yes, sir. Yes, sir. Uh-huh.

Q. Now would the Board of Control in their deliberations, the final appeal, when the spring practice letter was a recruiting rule violation, did this discussion occur or did discussion occur about what Flatt -- about what Coach Flatt wrote in his letter?

A. Yes, sir.

Q. And did you all take the time to go through the letter and look exactly at what he had said and decide whether or

not you thought it was undue influence?

A. Yes, sir. We read the letter, yes, sir.

Q. All right. And did what the letter said play a factor in you determining whether or not you thought it was a recruiting rule violation or not a recruiting rule violation?

A. Yes, sir.

* * *

[1013]

Q. What about if it was the starting quarterback but instead of a birthday card it was a get well card because he had been in an accident, and he was a student, say, an eighth grade student, good football player, been in an accident and the high school football coach sends him a get well card, would that be a recruiting rule violation?

A. There again, I think it would depend on the circumstances. It would not necessarily, no.

* * *

[1031]

* * *

Q. So it's just a guide for you to be thinking about whether deciding how to apply the recruiting rule?

A. The questions and answers are there to help you understand the rule itself, yes.

Q. All right. And I assume that's true as well for the guidelines for understanding the recruiting rule and understanding what is undue influence?

A. Where are we talking about now?

Q. Just below question five.

A. Yes, sir.

Q. So those also are not binding on you as a decision-maker?

A. Correct.

* * *

[Testimony of Robert Morris Rogers]

[1042]

* * *

Q. Now during that hearing -- excuse me, during that deliberations process, did Mr. Childress and Mr. Menees provide you three board members and Mr. Carter with information?

A. As I remember we asked them questions. I don't -- I don't remember how much information, but I know we asked a lot of questions. That's our basic nature.

* * *

[1043]

* * *

Q. And TSSAA didn't present any evidence during that public hearing, that was Brentwood Academy's time, correct?

A. That was their presentation, correct.

Q. All right. But TSSAA did provide you nine board members **[1044]** with information during the deliberations process, correct?

A. As we asked them questions, correct.

Q. And those are once again private deliberations?

A. As I remember it, yes.

Q. And Brentwood Academy representatives were not part of that process?

A. I don't think so.

* * *

[1053]

* * *

Q. Now the question and answer in the guidelines, those don't bind you as a Board of Control member when you're making decisions, correct?

A. Bind us?

Q. Right.

A. I don't think so.

* * *

[1056]

* * *

Q. Mr. Rogers, I would like to show you your deposition, page 72, line 16, starting at line 16.

What is the purpose of the recruiting rule?

Your answer was, I think that's obvious. That was getting into my area of what I think it ought to be. And it's really for protection of schools and coaches. But, you know, the obvious thing is to keep me and schools or Coach Flatt's school or anyone, anybody else's school from obtaining, since we're talking about athletics here. Athletic services of students and pupils without their just **[1057]** clear-cut choice, without any pressures or influence from me to bring them here. I mean that is the purpose, is to keep that from happening, you know, whether it works or not. Obviously we could debate for hours in the working part of that. I wish we had something that was much, much more hard-lined. I wish there was no contact whatsoever. You know, personally. I wish the only people that could ever talk to a kid coming to your school of any kind, band member or just Joe kid, is a guidance and administrator. I don't see the need

for anybody else to talk to them. It would be a lot simpler.

A. Sure would.

Q. Do you agree that that was an accurate statement?

A. That's what I said.

* * *

[1058]

* * *

Q. Keeps them from losing their best players?

A. No, I think it protects -- well, yes, it does. It does do that. You know, if it works.

* * *

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

[Caption Omitted in Printing]

TRANSCRIPT OF PROCEEDINGS - BENCH TRIAL

VOLUME V of Ten

BEFORE THE HON. TODD J. CAMPBELL,
U. S. District Judge

on December 17, 2002

* * *

[Testimony of Ronald Lee Carter]

[1088]

Q. * * * I mean was that phrase in it from the outset?

A. I would have to --

Q. From your view of the history, I know you weren't there, were you?

A. No, sir. First of all, I would have to go back and, you know, have to have a copy of that to look and see exactly how -- what the wording was, what the terminology was, so I don't have that in front of me at the present time.

Q. All right. I'm going to hand you what your research, I guess in this case research, has revealed is the TSSAA constitution and by-laws effective July 1951, which is Exhibit 74. And I'm going to hand you No. 74. And I think this is actually an excerpt. I ask you if you can identify this as a copy of or a part of the TSSAA constitution and by-laws, but in particular, referring to the recruiting rule.

A. Yes, sir, I'm assuming that these pages have come from what's here on the cover.

Q. All right. And, if you would, let's look at the language of that and, Sandy, if you would put that up. It's Section 20, bottom of page one and top of the other.

And, Mr. Carter, I ask you if you would read for us the recruiting rule in its entirety into the record.

A. The use of undue influence by anyone in causing or attempting to cause a student to transfer from one school to **[1089]** another for athletic purposes shall render the student ineligible for 12 months are the school shall be penalized.

Q. Okay.

MR. BARFIELD: Your Honor, if you get to -- you have that in your materials?

THE COURT: It's 74?

MR. BARFIELD: 74.

THE COURT: 74.

MR. BARFIELD: I wanted to be sure.

THE COURT: I've got it.

MR. BARFIELD: All right.

BY MR. BARFIELD:

Q. Now it looks like the 1990 -- 1951 version of this, which is the earliest one that has been produced in discovery in this case, deals with really transfers from one school to another; am I right about that?

A. Yes, sir.

Q. And so that would be like a situation where a student is in one high school and transfers to another high school?

A. No, sir.

Q. It could include that?

A. Well, it could include that, but it would be -- you have to understand the definition of transfer at that particular time, would have been any students going from one school to another, so it could have been from high school to high **[1090]** school, junior high to high school, could have been going from, theoritically, any school, K through 12, might have been transferring to sixth grade to another school. So it applies simply -- to transfer means was in one school last year and is from another school this year or last week and

this week.

Q. All right. The language for athletic purposes is in there in 1951, right?

A. Yes, sir.

Q. And the attempts are in there, at least for the student, right? The penalty is ineligibility for 12 months and the school shall be penalized?

A. Yes, sir.

Q. Right?

Okay. Now the penalty apparently rested in the discretion of the executive director at that time, as to what penalty is going to be imposed upon the school, because it's not in the rule itself, is that right?

A. The penalty for the school?

Q. Yes, sir.

A. Yes, sir. It would be under the responsibilities of the director.

Q. All right. And it would be in the director's discretion to say, you know, this is the appropriate penalty for the school, that's the appropriate penalty for whatever, right?

[1091]

* * *

A. That's correct.

Q. Now, Mr. Carter, I'm going to hand you what's been marked as Plaintiff's Exhibit 75, which appears to be a copy of the official handbook of '58 and '59, for the TSSAA. And it also contains an excerpt on the recruiting rule. I'm going to ask Sandy, if you would, put that recruiting rule up on the board so we can read it. And let's take a look and see what seven or eight years later the TSSAA whether they have made any changes or not.

What does the recruiting rule Section 20 say?

A. The use of undue influence by any person connected or not connected with the school to secure or to retain a student or the parents or guardians of a student for athletic

purposes may cause the student to become ineligible and will make the school subject to penalty.

Q. All right. So there are a couple of changes here, that language of undue influence stays in the rule in '58-'59, correct?

A. Yes, sir. **[1092]**

Q. They add this business about connected and not connected, correct?

A. Yes, sir.

Q. That wasn't in there before?

A. Yes, sir.

Q. They have got the notion of secure and retained. That comes in there in 1958, doesn't it?

A. Yes, sir.

* * *

Q. The 1951 rule had said that the – did include the language for athletic purposes, didn't it? **[1093]**

A. Yes, sir.

Q. And so does the 1958 rule, correct?

A. Yes, sir.

Q. Okay. But the penalty has been changed in the 1958 rule for the student, is that right?

A. The 1951 rule states that the student – shall render the student ineligible for 12 months, and the 1958 says may cause the student to become ineligible.

Q. All right. So that leaves some discretion, does it not, in the executive director and the TSSAA to decide whether or not the student will become ineligible?

A. That's correct.

* * *

[1094]

* * *

A. I don't mean -- I think, first of all, you have to understand our book is not written for lawyers. It's written by school people. It would have been written by school people in '25, '58 or today. It's written by school people for school people.

And I think very simply it is what it says it is in '58 and that is if you have a violation -- if you have a violation of the recruiting rule, Section 20, that it will make the school subject to penalty. Just does not spell out what the penalty is.

Q. All right.

* * *

BY MR. BARFIELD:

Q. Okay. Next I want to hand you Exhibit 76, which is a copy of Plaintiff's Exhibit 76, which is a copy of the 1978-'79 handbook of the TSSAA and an excerpt dealing with the recruiting rule. **[1095]**

And I'll ask Ms. Ward if she could put the recruiting rule up on the board for us.

Mr. Carter, would you read the 1978-'79 version of the recruiting rule?

A. The use of undue influence on a student, parents or guardians of a student by any person connected or not connected with the school to secure or to retain a student or are for athletic purposes may cause the student to become ineligible and will make the school subject to penalty.

Q. All right. Does that differ from the prior version?

A. There is some change. I mean there are some changes in some wording.

Q. Okay. What word changes do you recognize?

A. The last one you gave me, the '78 starts off the use of undue influence on a student, parents or guardians of a student.

This one starts off the use of any undue influence by any person connected or not connected with the school, so there is just a change in the phraseology in the sentence.

Q. All right. But connected, not connected, is in both versions, right?

A. That's correct.

Q. All right.

A. You want me to continue?

Q. Yes. Any other differences? **[1096]**

A. Not that I see.

Q. Okay. In looking at this -- in this rule, going to the penalty phrase of it, this is in 1978 and '79, and actually for 20 years basically the rule stays the same, right?

From '51 to '78, right?

A. Right.

* * *

Q. * * * You started when?

A. With TSSAA?

Q. Yes.

A. I started in the summer of '78.

Q. So you started just about this time that this rule's coming on, right?

That's -- your tenure begins about that time, **[1097]** right?

A. The rule's not coming on now. The rule's -- I had been teaching and coaching for eleven years prior to this, so I have been very familiar with the rule prior to this.

Q. Now I want to ask you a couple of short questions about this Section 21, Mr. Carter.

On the penalty phase where it says for athletic purposes may cause the penalty -- the student to become ineligible, is a permissive word, isn't it? May is permissive?

So it doesn't say shall cause the student to become ineligible, it now says the student may become ineligible, right?

A. That's correct.

Q. All right. And you understand that when you have a permissive word like that it gives some discretion to the decision-maker about whether to impose the penalty or not?

A. That's correct.

Q. It's not mandatory, so you don't have to impose it, are you with me?

A. That's correct.

* * *

[1099]

* * *

Q. Now, Mr. Carter, let me hand you what's been marked Plaintiff's Exhibit 77.

Plaintiff's Exhibit 77 is the '84-'85 handbook, excerpts of it, which includes some changes to the recruiting rule.

And, Ms. Ward, if you could put up Section 21.

Okay. In 1984 and '85 how did the rule read? It now became Section 21. Read it into the record, please, sir, Mr. Carter.

A. This section has been changed, is that the part you want me to read?

Q. No. You can go on to the rule itself.

A. Okay.

Q. It's up on the screen there.

A. The use of undue influence on a student (with or without an athletic record) his parents or guardians of a student by **[1100]** any person connected or not connected with the school to secure or retain a student for athletic purposes shall be a violation of the recruiting rule.

Q. All right. Now what changes do you notice there, Mr. Carter?

A. The insertion of the word, the parentheses with or without an athletic record.

Q. All right. You were executive director in 1984, were you not?

A. No, sir.

Q. You were assistant executive director in '84? '84?

A. Yes, sir.

Q. 1984. You were assistant executive director in '84?

A. Yes, sir.

Q. You were on the staff of the TSSAA --

A. Yes, sir.

Q. -- at that time? Okay.

Do you know of your own personal knowledge why the language with or without an athletic record was added to Section 21?

A. Yes, sir. You have to understand what athletic record means to our schools.

Q. What does athletic record mean to our schools?

A. Athletic --

Q. Let me rephrase that. **[1101]**

What does athletic record mean to the TSSAA?

A. Athletic record means the student participated in athletics last year or last week at a member school. An athletic record is a record at a member school.

Q. Does that include intermural athletics?

A. No, sir. An athletic record -- let me state again, an athletic record with TSSAA, which is in competitive athletics against other schools interscholastically, and would mean you have an athletic record with a member school.

Q. All right. So if you are in -- there are no TSSAA member schools below the seventh grade, are there?

A. I don't know what your question is.

Q. In the sixth grade, have you got any TSSAA member schools in the sixth grade?

A. We got schools that are K 12s that would be members that would have kindergarten students in it.

Q. But you don't have jurisdiction, the TSSAA does not have jurisdiction below the seventh grade, does it?

A. No, sir.

Q. So if a child plays in a sixth grade football game for an elementary school, that child does not have an athletic record, right?

A. That's correct.

Q. But if the child plays in the seventh grade and that

school is a member of the TSSAA, that child plays in a **[1102]** football game, that child does have an athletic record?

A. Not necessarily.

Q. Not necessarily. All right.

Why not?

A. The school could be playing middle school athletics and the student -- the school could be placed in -- not be a member of the middle school association, which would not even be a TSSAA record. You could not have one at the seventh grade because it's referencing to the TSSAA record, meaning a high school record. Seventh graders cannot participate at the varsity level.

Q. All right. Now that we understand what the TSSAA definition of athletic record is, why did the TSSAA, if you know, why did they expand the rule to include the language with or without an athletic record to modify students?

A. You're seeing a transition of schools across the state of Tennessee about this, in this particular time. In the past you had -- we had probably, I don't know the number in '84, but we had had at one time when I came in, we probably had about 275 to 300 what we would refer to as junior high schools. Definition for us is true junior highs which meant they terminate at the ninth grade.

You're seeing a movement going across Tennessee of schools changing from seven through nine and ten through twelves to schools that were K eight, seven and eight, six **[1103]** eights, all kinds of arrangements there and nine through twelves.

Students that were in schools terminating at the eighth grade did not have athletic records because they could not be members of the TSSAA. You had to have the ninth grade to be a member of TSSAA.

The point that you can see from the school people's perspective is this, it doesn't make any difference whether they have had any athletic record or not, if it's a true junior high they are seventh and eighth and ninth graders

participating for Humboldt Junior High School, they have got an athletic record.

If it is Humboldt Middle School -- I'm just changing the school right now. If it's Humboldt Middle School, and the students are participating at the seventh and eighth grade level there, the fact that they don't have a TSSAA record does not mean that you can't have recruiting violations. That's what you see, the thinking of the school people in terms of what's taking place, which also is coupled with you have to realize there was beginning to develop sort of a mentality among some of our coaches that if they are not in a TSSAA school, recruiting rule only could apply to member schools moving back and forth in that light.

So what you see is sort of an overall theme or **[1104]** message coming to the schools that you can have undue influence at any level there in particular with members and non-member schools.

* * *

Q. Now let me hand you Exhibit 61. I believe that has been marked, has it not? Been admitted, Exhibit 61?

Ms. Ward, if you could put up the Section 2 up there, the second paragraph.

Now I have handed you what has been marked as Plaintiff's Exhibit 61, which is a copy of the constitution and by-laws of the TSSAA, effective in 19 -- I think effective in July of 1997, at the time all of these incidents were going on.

Put the next paragraph up, please.

Now the constitution of the association in 1997 contained an Article I, Section 2, which I put up on the **[1105]** board there, and I would like, Mr. Carter, if you would to read that into the record for us.

A. You want me to read Article 1 --

Q. Yes, sir.

A.-- Section 2 in its entirety?

Q. Yes, sir. Yes, sir.

A. The purpose of the incorporation shall be as stated in

the Charter of Incorporation and in addition to stimulate and regulate the athletic relations of the secondary schools in Tennessee.

* * *

[1211]

* * *

Q. They were permitted to go to spring practice in football, were they not?

A. Yes, sir.

Q. You just penalized Brentwood Academy for communicating about a permissible activity, didn't you?

A. No, sir.

Q. If spring practice was such a big problem for you, Mr. Carter, why didn't the TSSAA just outlaw it?

A. Well, it did, the rule was changeed, oh, I think probably this particular year or year later, but, again, you would have to know the whole sort of history of spring practice at schools, how it occurred and what was taking place in education. This particular -- I guess you would say the fact that we didn't prohibit students coming from another school to go to spring practice, that it had; probably outgrown its use in terms of a rule. Probably something that should have been changed years ago, but there were schools in transition and you got to know that whole history.

* * *

[Testimony of Sharon Stoll]

[1241]

***

Q. Okay. Professor Stoll, how does a rule which

prohibits athletic recruiting at the high school level, how does such a rule promote fair competition or a level playing field?

A. When we look at the purpose of a recruiting rule, we have to look at how that is related to the purpose of the activity. High school sport. We look at the TSSAA's constitution and there are two points of who they are, what their purpose is.

Second point talks about sportsmanship. And the teaching of sportsmanship and citizenship.

Now what is recruiting? What does recruiting do? Recruiting brings in individuals who're going to have perhaps more skills and talent than another person.

Let's assume that we have a school that cannot recruit or does not have the facilities or resources to recruit, and they play the game according to the type of student that they get to come in. And they are limited because maybe geographically or whatever.

So as one of my old coaches used to say, You are dealt the hand you're dealt and you play the circus with the animals that you're given. That sounds really rude but that's the way coaches think.

So you want to have so many players who have these **[1242]** certain abilities, only a few players may have a lot of gifts and others may have a few talents but you're limited by what you're doing.

Now let's assume, Chris, that you are one of those schools so you have limited abilities of what kind of talent you have and the skills that you have.

Let's assume that I have more resources and I play against you and I go out and increase my chances of winning because I can gain athletes who're more talented and more skilled. When that occurs, and we play against each other in competition, fair play doesn't exist any more because you're going to win, you're going to win probably every time we compete against each other because you're going to have -- I'm sorry, I'm going to have more than you're going to have

so you're not going to be able to.

So the whole notion of recruiting tries to keep that feel so that there is an equal chance for success on both sides. And that's the purpose of recruiting rule, to try to control so that that equal chance can exist.

* * *

[1298]

* * *

Q. All right. Now in forming your opinions in this case did you draw any distinctions between speech and conduct on the part of coaches?

A. Between speech and conduct?

Q. Right.

A. Meaning?

Q. Well, speech of course means communication back and forth between two people, and conduct meaning like the giving of inducements, like money, to a student.

A. I'm sorry, I don't understand the question. What's the **[1299]** difference between speech and conduct?

Q, No, ma'am. I'm asking you in arriving at your opinions, did you draw any distinction in your mind between those two things?

A. Well, yes, there's a difference between the two, if that's what you're asking me.

Q. All right. Well, did you draw -- did you use that distinction between the two in forming your opinions?

A. Well, my opinion was on the expert testimony of other people, it wasn't on the recruiting rule. I'm sorry, I'm not trying to be obnoxious, I don't understand. Is there a difference between speech and conduct?

* * *

[1300]

Q. All right. That's not exactly my question.

My question is do you see those two things, the speech and the conduct, as being the same things? Or you see them as being different things in terms of whether they impact upon the recruiting rule?

A. You know, if a coach went up and patted a kid on the back, a very important coach, and just patted him on the back and winked at him, the fact that that kid knew who they are, that's important action. So I don't see a difference between the two. Maybe there is. But if it's an important person, it's not just Joe Blow on the street, it's an important person and their actions and their speech have effects.

* * *

[Testimony of Michael Reed]

[1370]

* * *

Q. Now the final appeal involved all nine members of the Board of Control, is that accurate?

A. That's accurate.

Q. And you, in fact, were the president of the Board of Control at that time?

A. Right. Uh-huh.

Q. And you sat on that appeal? **[1371]**

A. Yes.

Q. Now at that appeal, which occurred -- did that occur at the Sheraton here in Nashville, about August 23rd --

A. Correct. Correct.

Q. -- of '97, is that correct?

A. Correct. Yes.

Q. Yes. Now at that appeal did Brentwood Academy present its case in an open forum?

A. Yes.

Q. They did.

And after Brentwood Academy presented its case, did you and the other board members and Mr. Carter retire behind closed doors?

A. We went in executive session, correct.

Q. And executive session means that it was a private deliberations process, correct?

A. Correct.

Q. And Brentwood Academy was not permitted to have representatives in your deliberations, correct?

A. That's correct.

Q. But in those deliberations, Mr. Carter was present, was he not?

A. Correct.

Q. Because he is the executive director?

A. Correct. **[1372]**

Q. And Mr. Childress and Mr. Menees, the other two investigators, were also present, were they not?

A. Correct.

Q. And during your private deliberations, Mr. Childress and Mr. Menees provided you and the other board members with information about what they found in the course of their investigation, is that accurate?

A. We had already been supplied that. We had already been given what they found before the meeting.

* * *

Q. Were you provided with materials that Brentwood Academy had submitted in its earlier presentations?

A. No. Not to my knowledge. Now, you know, I can't recall. Now, you know, in those hearings that we have, of that nature, those people are there for the board to ask any questions that they may want to ask those investigators, concerning Brentwood Academy.

Q. All right. Did any investigator from the state office, Mr. Childress, Mr. Carter or Mr. Menees, report that they

[1373] thought Mr. King had engaged in conduct that caused Brentwood Academy to violate the recruiting rule?

A. Mr. King was discussed. Now I can't go back and recall just exactly who presented the situation, but Mr. King, the situation with Mr. King was discussed.

Q. All right. And in your deposition you stated that you were asked, which one? Mr. Childress? And at that time you said that you weren't sure it was one of the two of them, is that true?

A. I'm not sure today.

Q. All right. But it was discussed.

Q. Would it have either been -- would that information have come to you either from Mr. Carter, Mr. Childress or Mr. Menees, one of the three investigators?

A. Yes, it would. We have an opportunity to ask them questions in that session to find out what they found out.

Q. All right. And did the Board of Control members take the opportunity and actually ask them questions?

Is that a yes?

A. Yes.

* * *

[1379]

* * *

Q. All right. Was it one of the factors in your finding a penalty or was --

A. Oh, it was a factor. Now, you know, what was going on and so forth, was it a factor? Sure. I think though the [1380] board was really looking for a way to make those three kids eligible that were ruled ineligible, and so they gave the situation with Bart King the benefit of the doubt, and that's the reason it wasn't included in those three.

Q. So it was a factor in your final decision, if not the primary?

A. It was discussed and it was a factor in the overall

penalty. We had to look at the whole picture, as I mentioned to you earlier what all took place, it was probably a factor in the overall penalty, especially the four-year probation, and the fine, yes, but as far as one of those three, it's not there. It's not.

* * *

[1390]

* * *

Q. Okay. Now the difference between the Warrior letter from Coach Rankin and the spring practice letter from Coach Flatt, would you agree the difference in the two letters is what they say?

A. Right.

Q. All right.

A. You got to -- I view the letters as look at what they say, what kind of feeling are they generating to those students and that sort of thing.

Q. When you say --

A. This is more of an information letter. And I think the other letter from Brentwood Academy is more of a letter enticing them, you know, you're here now, but now keep this in mind, those kids that received that letter from Brentwood Academy were enrolled in another school at that time.

Q. All right. But you would agree, and you did agree in fact that Coach Rankin had sent that letter to kids who were enrolled? **[1391]**

A. I don't know look he sent that letter to. I don't know. That letter, you know, that hasn't been said really who he sent it to. But that's more of an information letter, the way I view it.

Q. All right. Okay. And you mentioned what the letter says. As a factor or a difference would you also consider the different impacts it would have on the kids who would get the letter? The different effects it would have on the kids

who received it?

A. Yes.

Q. I'm sorry?

A. Yes.

Q. All right. So when you decided that the spring practice letter was a violation of the recruiting rule, one of the factors you considered was how it would impact the person who read it?

A. Sure.

* * *

[1397]

* * *

Q. Okay. Now let me just ask you once again to look at the spring practice letter and the basis for the board's decision, the concensus decision of the Board of Control. As I understand it, the factors that went into you determining this was a violation were the message of the spring practice letter, the person that wrote the letter, which was Coach Flatt, the person who received the letter, the fact that the students were enrolled in other schools, and the impact that that message had on the students or that you thought it would have on the students?

A. Content of the letter.

Q. Okay.

A. The message that it sends.

* * *

Q. Are there any other reasons other than the ones I just listed that would cause this letter to be a violation of the **[1398]** recruiting rule?

A. Well, I don't know everything you listed, but look, due to the inconvenience of your parents, please do not feel that you must attend every practice. However, I do feel

that getting involved as soon as possible would definitely be to your advantage.

To me that's telling them you need to be at practice. You are going to get left behind if you're not there. You're enticing them to be at practice, when they are not your students.

Also, I think we mentioned he had his home phone, you can call at home, your coach. As well as the other things mentioned there.

Q. So in response to my question whether there are any other factors that you can think of other than the five that I listed just a second ago that led you to finding this letter to be a violation of the recruiting rule?

A. Those that I mentioned. I don't know if the last thing we had here, if that's one of your five or not.

Q. All right. Including that. Are there any other ones? I just want to make sure I have all the factors that led you to convict Brentwood Academy based on this letter.

A. Okay. You have got -- you have the letter going out to athletes.

Q. The fact it was from Coach Flatt, correct? **[1399]**

A. It was from Coach Flatt.

Q. A famous coach?

A. A well known coach.

Q. A well known coach?

A. Okay.

Q. The impact it's going to have on the reader?

A. Right.

Q. The message that the letter sends, the content of the letter?

A. Content of the letter, enticing them to be there or you're going to get behind if you don't show up. Call me at home if you would like. Signed, Your coach, who's not his coach at the time. Those are the things that I'm referring to.

Q. All right.

* * *

[1404]

* * *

Q. Mr. Reed, Mr. Colbert referred to the way the letter was written.

My question to you is what about the way the content of Coach Flatt's letter was delivered caused there to be a reciting rule violation?

A. Repeat that. The way what?

Q. What about the way this letter is worded caused it to be a recruiting rule violation?

A. The letter is putting pressure on the student to attend the spring practice, correct.

Q. And how do you determine the way that it does this?

A. Well, the overrule -- the overall theme of the letter, encouraging those kids to go to spring practice.

Q. You're talking about what the letter says and the impact it's going to have on the kids?

A. Right, the impression, the overall feeling of the letter as you read this letter, the overall sense that you get from the letter, the recruiting violation.

* * *

[Testimony of Scott Brunette]

[1415]

* * *

Q. But it would be okay to bring them pieces of clothing, the example that was used in your deposition was this being a Hunters Lane coach going to one of Hunters Lane feeder schools and Neely's Bend was the example that was being used and the question was, Would it okay and give those kids hats and T-shirts and say, hey, I hope you guys come to Hunters Lane High School next year, that be

okay?

A. Not only would it be okay, I would promote our high schools to go to their feeder schools, have a good relationship. Once again, if all the students are treated the same way.

Q. Okay. Now what if that kind of contact by the coach -- what if the coach went in and he just gave that presentation to the eighth grade football team, but it was the whole eighth grade football team and he said, I want you guys to **[1416]** come, I want you to play for Riverdale High School, here's some ball caps and Riverdale T-shirts, we're looking forward and we are going to be happy to have you?

A. My understanding from the rules and the way that I -- the way that I enforce them is as long as it's the whole team, it's not a violation.

* * *

[1417]

Q. And that would be when you're talking to the eighth grade players before or after the games, correct?

A. Yes. That would be correct.

Q. All right. And in your deposition you talked about how you think that promotes harmony and good relations and let's the kids know, let's the kids know they are going to be coming to Riverdale High School, correct?

A. That's correct.

Q. And isn't it true that as metro athletic director you would encourage all your coaches to go out there and get involved in the seventh and eighth grade athletic programs?

A. I would and do encourage them to support their seventh and eighth grade athletic endeavors.

Q. And, in fact, you have told your coaches, have you not, that seventh and eighth graders that are coming in, you know, athletic programs, those are the high school coaches future, isn't that correct?

A. Absolutely.

* * *

[1418]

* * *

Q. Well, let's just take a quick look at your deposition. On page 111, at line 25, then going on to the next page.

Question: Can they -- can the high school coaches say, Hey, Joe, you know, you're a fine football player, you could really make a contribution to Hunters Lane. I hope you will come over next year.

And your Answer: Yes.

Do you remember saying that?

A. Don't remember saying that, it's been a while, but, you know, once again, it would be -- it would be appropriate, but I certainly wouldn't want one student complimented and not the other ones,

Q. All right. But let me ask you this way. If a coach did that, do you think that would be a violation of the recruiting rule?

A. No, sir.

* * *

[1419]

Q. All right. Now can a Hunters Lane coach, for instance, a high school coach, have face to face contact with middle school parents while the – before the middle school student is enrolled at the high school?

A. In the set feeder pattern?

Q. Yes, sir.

A. Yes.

* * *

[1420]

* * *

Q. All right. Now would you agree that the coach in your experience and based on your knowledge that that high school coach can mail letters to middle school eighth grade students and their families before they are enrolled in the high school and can communicate about athletic programs that will be available in the high school when they get there?

A. I would agree that that's -- that's that's done and is appropriate.

Q. And you would agree that based on your knowledge and experience that that is not a violation of the TSSAA recruiting rule?

A. That's my understanding.

* * *

[1432]

* * *

Q. Mr. Brunette, have you ever heard public school officials, coaches, teachers, refer to their students as or substitute athletes for our kids?

A. Yes.

Q. You have?

A. Yes.

Q. Have you ever heard public school officials or coaches or teachers complain about private schools and say, These private schools are beating us with our own kids? Or words to that effect? **[1433]**

A. Typically -- typically it would be more specific. They would name the school. But, yes. But they would name the school.

* * *

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

[Caption Omitted in Printing]

TRANSCRIPT OF PROCEEDINGS – BENCH TRIAL

VOLUME VI of Ten

BEFORE THE HON. TODD J. CAMPBELL,
U. S. District Judge

on December 18, 2002

* * *

[Testimony of Gerard Thomas Nebel]

[1471]

* * *

DIRECT EXAMINATION BY MR. BOOHER:

Q. Now, Mr. Nebel, as of right now, do you withdraw from representation of Brentwood Academy?

A. I do.

Q. In 1997, did you represent Brentwood Academy?

A. Yes, I did.

Q. And did you represent Brentwood Academy in connection with the allegations that are the subject of this lawsuit?

A. Yes.

* * *

[1473]

* * *

Q. And when you went to that appeal, did you know what charges Brentwood Academy was facing?

A. Well, I knew the information set forth in this letter of July 29th, but I didn't understand some of the specifics of the charges.

Q. Did you know what evidence that those findings were based upon?

A. No. Not all of it. I knew from TSSAA letters, some of the questions that they had asked and some of the statements in their letters. I had a general understanding of what their areas of concern were, but the specifics, you know, who at Brentwood Academy allegedly did what, there were still some questions that were unanswered from the school's [1474] perspective.

Q. Did you try and obtain that information, the who and the what from TSSAA?

A. Yes. For example, concern number six in this Exhibit 86, I tried to find out who at Brentwood Academy did what.

Q. Can you read concerning number six, please? Concern number six on page three of Exhibit 86?

A. Says, In talking with four student athletes from two different middle schools and six coaches from four different middle schools concerning contacts with student athletes in their schools, it was found that these contacts had come from persons connected with and persons not connected with Brentwood Academy. There is a recurring theme through all the interviews with students and coaches, the students are being singled out by someone based on athletic ability. It would appear to be of major concern to Brentwood Academy that the only two students from Neely's Bend School contacted and approved and accepted are two top athletes. Neely's Bend is 40 minutes away, the only student to go through the process from East Middle

School is out -- is an outstanding student. This should cause great concern on Brentwood Academy. The only student from Cameron to go through the process and be accepted is also an outstanding athlete. Three of the four would be among the best athletes in the metropolitan public school system at the middle **[1475]** school level. This is a violation of the recruiting rule. It is obvious that over and over we see persons exceeding what is normal and appropriate as well as treating athletes and prospective athletes differently than students who're not athletes. At some point examples one, three, four and seven of the question four above have been violated.

Q. And did the TSSAA tell you at which points those charges had been violated?

A. No. And I specifically asked them at the hearing in Fayetteville, I asked Mr. Carter to identify, first of all, whether students were being singled out by someone at Brentwood Academy based on their athletic ability, and at the hearing he told me yes.

And I told him, I said, Well, you have already told us we have got the burden of proof, so please tell me who at Brentwood Academy is doing so that we can defend ourselves, and I specifically told him otherwise we were in an impossible situation to meet our burden of proof.

And he refused to tell me who at Brentwood Academy was singling out students based on their athletic ability.

Q. Did you request information at that hearing from TSSAA in addition to what you have asked, did you ever request any written information from them?

A. At some point in time we did. I don't recall whether it was before the hearing or at the hearing, but we did request **[1476]** any investigative notes or any written evidence they had of violations.

Q. Prior to the hearing, were you given any of that type of information?

A. No.

Q. Were you given any of that type of information after

the August 13th Fayetteville hearing?

A. At some point in time during the discovery process it was furnished to us, but it is after the two hearings, the one in Fayetteville and the one at the Music City Sheraton.

Q. When you say the discovery process, are you referring to the discovery process for the federal litigation?

A. Yes.

Q. All right. Now did you receive notice from TSSAA about their finding of violations after the Fayetteville August 13th hearing?

A. Yes. I believe there is a letter dated --

Q. And the hearing in Fayetteville was August the 13th?

A. I think it was. I think we received a letter dated the next day.

Q. Okay. I would like to show you what's been marked as Exhibit 87. And, Ms. Ward, if you could highlight, blow that up a little bit so we can see it, please. Mr. Nebel, are you able to identify this document? **[1477]**

A. That's a letter that I reviewed at the time, it was sent by the TSSAA to Mr. Brown.

Q. And did this letter communicate to you the TSSAA's decision from the August 13th appeals hearing?

A. Yes. They communicated their findings to the school, yes.

Q. Aside from this letter, did you receive any other written information from TSSAA about their findings or the basis for their findings between the Fayetteville hearing and the time you had to defend Brentwood Academy at the final appeals hearing on August 23rd, 1997?

A. No.

Q. When you went into the final appeals hearing, did you have any other information aside from this letter, the July 29th letter and the two questionnaires from TSSAA, that they had provided to you?

A. I'm not sure I understand that.

Q. Let me ask it this way.

What information did you have at your -- were you -- did you have and were able to use as you went into the final hearing, what information provided by TSSAA?

THE COURT: Are you talking about from TSSAA?

MR. BOOHER: Yes, sir, just from TSSAA.

THE COURT: Okay.

BY MR. BOOHER: **[1478]**

Q. What information had they given you so you would know what charges BA faced and what charges did they give you as you went in to defend them at the final appeals hearing on August 23rd?

A. Just the correspondence that had been addressed to the school, to Mr. Brown at the school, from the TSSAA.

Q. All right. Specifically, do you recall what those pieces of correspondence were?

A. They were either two or three letters before the August 13th hearing I believe, and then the letter dated August 13th, 1997.

Q. All right.

A. So by the time we walked into that hearing at the Music City Sheraton, we either had four or five pieces of correspondence from the TSSAA.

Q. Okay.

MR. BOOHER: Your Honor, may I have a moment?

THE COURT: Yes.

(Pause in proceedings.)

BY MR. BOOHER:

Q. Now, Mr. Nebel, I would like to show you a document that has been designated as Plaintiff's Exhibit 96. Mr. Nebel, can you identify this document?

A. Really I can't.

Q. Okay. Have you ever seen this document before, to your **[1479]** knowledge?

A. Not before today, that I'm aware of. There are so many pieces of paper that were produced in the discovery in this litigation, it's possible that I saw it, but I don't recall it.

Q. Let me ask the question this way, Mr. Nebel.

Did you ever see this information before the conclusion of the final appeals hearing in Fayetteville?

A. No. The final appeals hearing I think was at the Music City Sheraton.

Q. Yes, let me rephrase that.

Did you ever see this before the final appeals hearing at the Music City in Nashville?

A. No.

MR. BOOHER: Your Honor, I ask this be marked for identification purposes as, I guess, whatever the next exhibit number is.

THE COURT: You're going to have to tell me, you're the one that numbered them.

MR. BOOHER: 152.

MR. COLBERT: It's premarked as Plaintiff's Exhibit 96, wasn't it? Isn't that what he said?

MR. BOOHER: Then I would like for it to be marked for identification purposes.

THE COURT: 96? **[1480]**

MR. BOOHER: 96.

THE COURT: Can you describe it for the record so I know what it is?

MR. BOOHER: Yes, Sir.

THE COURT: Just generally.

MR. BOOHER: Gene Menees' handwritten notes.

THE COURT: That's fine.

BY MR. BOOHER:

Q. Now I would like to show you what's been previously been marked as Plaintiff's Exhibit 95.

And, Mr. Nebel, can you read the statement that's on the first page of that?

A. This is a four-page document, and on the first page it has the initials GM, and the words Notes from eight slash 13, and it looks like H-R-G period.

Q. All right. And do you recognize this document? Can you identify this document?

A. No. I don't recall seeing it before.

Q. And had you seen this document at any time prior or during the final appeal in Nashville, Tennessee, on August 23rd?

A. No, I'm certain I did not see it before those hearings.

Q. Okay. Are you aware of anyone from TSSAA in that final appeal who has the initials GM?

A. Gene Menees, but -- you know, there were a number of **[1481]** different people there from the Board of Control and, you know, other administration of TSSAA.

Q. Okay.

MR. BOOHER: Your Honor, I ask that Exhibit 95 be marked for identification purposes.

THE COURT: All right. It will be marked as 95 for identification.

MR. COLBERT: Your Honor, so the record's clear, on the first page of Plaintiff's Exhibits 95 and 96, what's been copied is a post-it note on each one that was in my handwriting where I identified what these documents were when I produced them at the request of the plaintiff.

THE COURT: All right.

MR. COLBERT: That's my handwritten GM notes from May 23rd hearing and GM notes from 8-13 hearing on a post-it note so I identified what they were.

THE COURT: Thank you.

BY MR. BOOHER:

Q. Now I would like to show you what was previously marked as Plaintiff's Exhibit 94 for identification purposes. Can you just read the statement that's on the front, I believe?

A. Right. This is a two-page document and on the front it says GM notes to, that's t-o, self, preceding decision-making M-T-G period.

Q. And did you ever have the opportunity to see any of this **[1482]** information prior to defending BA at the final appeals hearing or during the final appeals hearing in Nashville?

A. No.

MR. BOOHER: Your Honor, I ask that that be marked for identification purposes as well, Exhibit 94.

THE COURT: All right. That will be marked as 94.

MR. COLBERT: Again, Your Honor, the first note is my handwriting, my note to identify for the benefit of the plaintiff's attorneys what this was.

THE COURT: Okay. Thank you.

BY MR. BOOHER:

Q. Now I would like to show you what's previously been marked as Exhibit 84, Plaintiff's Exhibit 84. Do you recognize this document?

A. Yes.

Q. Was this one of the communications that you were referring to that you had received or the school had received, Brentwood Academy had received, from TSSAA prior to the ultimate finding of guilty in Nashville on the 23rd of August, '97?

A. Yes. This is one of the documents that they received and that I took a look at before the hearings.

Q. I would now show you what's been previously marked as Exhibit 85. Do you recognize that document, Mr. Nebel?

A. Yes. **[1483]**

Q. Can you identify it to the court?

A. Yes. This is the -- this is actually the first document that I was shown. It is multi-page document from the TSSAA to Mr. Bill Brown, the principal of Brentwood Academy, and I believe it was this document that led Mr. Brown and Mr. Flatt to call me.

Q. And was this one of the documents that you were referring to that you have been provided by TSSAA?

A. Yes.

MR. BOOHER: Your Honor, may I have a moment?

THE COURT: Yes.

(Pause in proceedings.)

MR BOOHER:

Q. Mr. Nebel, based on all the information that was provided to you by the TSSAA about the allegations and the persons accused by TSSAA at Brentwood Academy, were you able to know what the basis of the earlier findings were and who they were accusing of doing what at the final appeals hearing so you could defend the school?

A. To some extent yes, but to a large extent, no.

Q. Why not?

A. Well, the example I gave you, for example, concern number six in the letter dated, I believe, July 29, 1997, if someone at Brentwood Academy was accused of singling out prospective student athletes, and if the TSSAA was going to **[1484]** regard this as a violation of the rules, and if we had the burden of proof to show that we didn't violate the rules and we were told at those hearings then we needed to know who did what or who was accused of doing what. And we couldn't get the answer to that.

The information that they did make available to us, we tried to meet that head on with the exhibits we presented, but there were other allegations that were not spelled out to us and those allegations we were not able to meet head on because we didn't know who was accused of what.

Q. At the final appeals bearing, did you offer to call Bart King as a witness?

A. My recollection is that I did. Without having to review that transcript, I believe I did.

Q. Okay.

A. I know we submitted an affidavit at some point in time from Mr. King, and I think, but I'm not sure, but I think along with that he offered to call Mr. King.

* * *

[1491]

Q. And you knew before you went to this hearing in Fayetteville on August 13th of 1997 that the activities of Bart King were a concern to TSSAA, didn't you?

A. Yes. I knew that TSSAA was concerned about Mr. Bart King.

Q. Okay. And you knew before you went to the hearing on August the 13th, 1997, that the free admission given to some student athletes who came to a football game with Kevin Armstrong was a concern of TSSAA, didn't you?

A. I knew of that allegation, yes.

Q. Okay. And, in fact, before the hearing on August 13th, 1997, you sort of commandeered the effort to put together this roughly two-inch thick volume of exhibits that's been labeled Plaintiff's Exhibit 133 A, right?

A. Yes.

Q. And you had -- you had enough information before you ever got to the August 13th, 1997, hearing to know that you needed to get sworn statements from Jesse Kellogg, Jermonde **[1492]** Davis, Jacques Curry and Glean Eddy, right?

A. Yes.

Q. You had enough information to know that there were some potential problems involving the recruiting rule allegations surrounding those kids, right?

A. After -- I knew that the TSSAA saw those as potential problems, yes.

* * *

[1494]

* * *

Q. All right. And then if we go on over under tab number nine you had enough information on August 1, 1997, to interview -- to know that Jacques Curry was one of the students you needed to examine, right?

A. Correct.

Q. And on page ten of that examination you had enough information as of that date to know that his relationship with Bart King was one of the things you needed to ask him about, right?

A. Yes.

Q. Because that was one of the things that TSSAA was [1495] concerned about, right?

A. Correct.

***

[1498]

***

Q. I would like to show you what's previously marked as Exhibit 93. Do you recognize this document?

A. Yes.

Q. Can you describe it for the court, please?

A. These are some notes that we obtained from the TSSAA after the two hearings, the one in Fayetteville and the one at the Music City Sheraton.

Q. And what are these notes about?

[1499]

A. These were notes that were the investigative part of the investigative file that the TSSAA had and that, as I say, it was produced to us after the hearings.

Q. When you were defending Brentwood Academy, did you have the benefit of these notes?

A. No. Not at the two hearings.

***

[Testimony of Ronald Lee Carter]

[1556]

Q. * * * * Well, why wasn't it reasonable for Coach Flatt and Nancy Brasher to conclude that if it's permissible to participate in spring practice, that it must be permissible to communicate about spring practice?

A. I think right there is exactly, red flags start going up. I think that's what Mr. Rogers said here the other day. The minute you start sending out communications dealing with sports, I think with school people that's when flags ought to go up. I can't speak for Ms. Brasher in terms of -- but I can tell you from the context of dealing with people in athletics, that's the first antenna or flag that would hit.

Q. To summarize your analysis of this spring practice letter, who sends out the letter, there are several factors, but who sends the letter out is an important factor that is considered?

A. Yes.

Q. In looking at it.

A second important factor is what the message is, what the content is, what is in the letter, right?

A. No question.

Q. And the third thing is the recipients of the letter, who does it go to, who gets it. Is it just select athletes, is it everybody in the school or who is it. That's another factor?

[Testimony of John E. Roberts]

[1598]

***

Q. Now, Mr. Roberts, have you formed an expert opinion as to whether high school athletic recruiting should be prohibited?

A. Yes.

Q. And we're going to go over the basis for those opinions in a moment, but could you please provide the court with a brief overview of those opinions?

A. Rules that restrict recruiting of high school students for athletic purposes serve a variety of purposes. The **[1599]** over-arching purpose is to promote a proper perspective which is one of the athletic program being

subordinate to virtually everything else that goes on in school, certainly the academic mission of the schools.

Rules that prevent athletic recruitment also tend to prevent exploitation of students when the door to the school opens to athletic recruitment, as does the door to exploitation.

Rules that prohibit recruitment for athletic purposes also tend to promote and provide a level playing field and without a level playing field in educational athletics the gap between the haves and the have nots widens. There's an arm's race in order to keep up with the school down the road, which is not healthy. We're undermining the mission of educational athletics.

***

[1605]

***

Q. Mr. Roberts, let's move to the second point or actually the third, the point of your testimony, the maintenance of a level playing field.

Why is it important that student athletes get the opportunity to compete on a level playing field?

A. If you do not have a level playing field, the competition cannot be fair, you can only have hard feelings **[1606]** result. All who participate want a fair chance to succeed, not a guarantee of success, but a reasonable chance to succeed. And that's going to show up on a number of levels. The individual student athlete wants a fair chance to make the team, not a guaranteed spot, but a fair chance to make the team, and does not want to be bumped out, does not deserve to be bumped out or off the squad or out of a starting line up or out of playing time by someone recruited for athletic purposes to the program.

The team doesn't want to be humiliated week after week by teams that are much more loaded in talent and powerful. If a team loses all the time, and loses by

discouraging margins, then participation will drop. There won't be as many youngsters coming out for the team. When that happens, schools lose a tremendous vehicle, sports, for reaching and motivating young people and for teaching them in practical ways about team work and hard work and sacrifice and discipline and leadership and sportsmanship and all of those things that can be good in sports.

And if the school loses that element, loses the participants, then the community isn't going to rally around, isn't going to come to the games, fewer participants you have, the less school spirit you have, the less community involvement you have and schools become much weaker. And you don't have the Friday night game or the [1607] Tuesday night game as a rallying point to communicate to the community about what's going on in the school, not just in sports, but in all aspects of the school's life.

Q. All right.

A. Finally, an organization like the Michigan High School Athletic association, Tennessee Secondary School Athletic Association, the schools corporate lead in the state have an interest in this level playing field. If it tilts too far, if the gap between the haves and the have nots gets too wide, then there's not going to be a place in the organization for one end or the other of that spectrum.

I really believe that rules that promote a level playing field promote having all of the member schools come together for the common good. When the level playing field tilts, and the gap widens, the arms race to recruit is on, then there's a division in the organization and the organization can't accomplish good things for schools and people. I really think that rules that restrict athletic recruiting deescalate the arms race and provide a place for all kind of schools in the state organization, provide a place, frankly, for schools like Brentwood Academy, without a recruiting rule there wouldn't be a place for a school like that.

* * *

[1678]

* * *

Q. Now this community rallying point, what do you mean by that?

A. The sports events of our high schools are a source of pride, a source of exchange of communication, both communication about what's going on in the school, what's going on in the community. It's a gathering place. Schools take -- communities take a lot of pride in their sports teams. If a school team never has success, participation declines, as participation declines, so does the community rallying point, fewer people come. School and community lose support. There are schools that live and relive state championships won. There are schools that bitterly, bitterly resent championships lost. It's -- high school sports, educational athletics is a local phenomenon, it's pure, it's [1679] wholesome, hometown, sometimes corny thing. And --

Q. But it's a very real feeling, isn't it?

A. Yes.

Q. And if an athlete, really a good athlete, local boy or girl, and they are really good and they grow up and they are successful athletes, the community at the local school is proud of them and they rally around them, right?

A. Yes.

Q. Yes. And it develops a sense, have you observed this in Michigan or Tennessee or wherever you have been, that it develops a sense of ownership of these children, and you call them, not literally ownership, but they call them our kids, these are our kids, you've heard that sort of expression?

A. Sometimes you hear that, that's right.

Q. These are our kids. And there can develop the resentment also there if somebody comes in and recruits those children away from the local public school, for academic or athletic reasons, then the local public school doesn't like it, do they?

A. They may not.
Q. Especially if they are really good athletes, right?
A. Correct.

* * *

[Testimony of George Sage]

[1727]

* * *

Q. And I think even in some of your writings you have advocated that more rigorous academic standards should be demanded of student athletes, right?

A. Yes. Yes, that's correct.

Q. And that you have been critical of state associations, high school athletic associations that only require a passing standard, that students have Ds in classes in order to be eligible, right?

A. Yeah, I think that's a minimum bottom. I don't think that's very impressive to have that as a standard.

Q. All right. Are you aware that TSSAA, that's all they require?

A. No.

Q. Okay. If you will look at -- well, I won't take the time.

If I represent to you that's what the TSSAA academic eligibility requirements are, would you agree with me that they should, if we're looking to subordinate athletics to academics, we ought to raise those standards?

A. Well, that would be my preference, yes.

Q. Okay. Now your report mentions enrollment based classification systems as the primary means for maintaining a level playing field, right?

A. That's what all of the states have established. **[1728]**

Q. Now I want to make sure I understand what you

mean when you're talking about an enrollment based classification system. Would you describe it for me quickly?

A. Yes. Schools are -- schools are put together, you know, organized into conferences on the basis of the enrollment at the school. And then -- in different states they use different terminology, but most states it's like the smallest schools are like one A and two A and three A and four A. And works up. But within each category there is an upper and a lower level of enrollment in the school.

Q. All right. So that large schools are playing large schools and small schools are playing small schools?

A. Yes.

Q. Now why is it necessary to break schools out in that way? What's the principle behind it?

A. Well, the principle behind it is that schools with common enrollments will over time have common resources at their -- athletic resources at their disposal.

* * *

[1732]

* * *

Q. All right. Now in your experience, or in your opinion, how do we go about measuring whether we're achieving competitive equity?

A. Well, I think that's a good question. And I think one way is to look at the performances of the teams and the various teams and how they are doing over a series of years. And I would look at not just one team, but the entire scope of the athletic program and how other teams are doing at a given school over a period of years.

Q. So if I understand what you're saying, the unit of analysis really in trying to decide whether we're achieving competitive equity is the school and not the students so much, right?

I mean you're focusing on how the school is doing in its

competitive effort as opposed to how the individual students are doing? [1733]

A. Well, in this particular case, because we are trying to equalize resources.

Q. Okay. Between schools?

A. Yes. Between schools, yes.

* * *

[1736]

* * *

Q. Assume you're a parent of an eighth grader and you're looking for a high school and you bump into the coach for Brentwood Academy in the grocery store, and he comes up to you and says, Mr. Sage, I hear that Mr. Sage Junior is a terrific athlete and we really hope he is going to apply and come to Brentwood Academy.

Do I understand what you're saying here to mean that because of the effect that kind of statement can have on you as a parent and on your son in your hypothetical that coaches shouldn't be allowed to do that?

Shouldn't be allowed to approach and make those kind of communications?

A. Well, I think -- I think it's impinging upon the undue influence.

Q. Is that a no?

A. Is that a no?

Q. No, is that a no, sir? It's kind of a yes or no question.

A. I see. Okay. Restate it. I'm sorry.

Q. Do I understand you to be saying that because of the effect of that kind of statement of the parent and the student that coaches shouldn't be allowed to approach you in the grocery store and say these kinds of things? [1737]

A. No, they shouldn't.

Q. Okay. When you were drafting your report, did you make any distinction in your mind when thinking about

recruiting activities, did you make any distinction in your mind between sort of speech and conduct?

Do you understand what I mean by that?

A. I think speech and conduct -- speech is a form of conduct.

Q. Okay. Well, let me give you an example. Do you think there's a distinction between, in terms of recruiting, between my coming up to you and saying, I'm a Brentwood coach, and I come up to you in grocery store, like I said just a few minutes ago, and I just mentioned to you, speak to you and say, we think your son would be a great athlete at Brentwood Academy, we would love to have him, is that different from my talking to you in the grocery store and giving you an unmarked envelope full of money?

A. Oh, yes. Sure.

Q. Okay.

A. Yes. One is much more serious.

* * *

[1757]

* * *

Q. Right. There were certain aspects of the contents of the letter that caused concern for you?

A. Sure. Sure.

Q. And, of course, the content of the letter is meaningless unless it has an impact on who gets it, right?

A. I think the person who sent the letter, that communication that is expressed here, the way the sentences are put together, the meaning that they convey, and who the recipients of the letter are, are all factors.

Q. All right. You have been in the courtroom all day today, right?

A. Yes.

Q. Were you here earlier today when Mr. Carter testified that this spring practice activity that's the subject

of this letter was a permissible TSSAA activity at the time?

A. Yes. I know it was a permissible activity, yes.

Q. In fact, what he said was that the eighth grade students that at the time this letter was sent out, the TSSAA policy was that eighth graders could go to spring practice at any school they wanted to, did you hear that?

A. Yes. That's not the point.

* * *

[1760]

* * *

Q. All right. Well, what if this letter, this exact letter, went to parents, and not to students, just to the parents of the 12 boys?

A. Well, then it would be a same violation because the rule reads that students, parents, et cetera, undue influence for athletic purposes.

Q. You told me a minute ago that one of the things you have to look at in order to determine whether it was undue influence was the effect it had on the folks that got it, right?

A. Yes.

* * *

[1772]

* * *

Q. So you would agree with me then that letter is getting pretty close to undue influence if not being undue influence?

A. I would say that, yes, just as you describe it, but as I understand the pattern, or not the pattern, but the process that is used, is that you need to look at the totality.

Q. All right. The totality of circumstances. Before you

make an actual --

A. Yes.

Q. All right. Well, you would agree with me though one way we need to go about trying to make that assessment, the total of the circumstances' assessment is by looking at the content of the letter, right?

A. Yes.

* * *

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

[Caption Omitted in Printing]

TRANSCRIPT OF PROCEEDINGS - BENCH TRIAL

VOLUME VII of Ten

BEFORE THE HON. TODD J. CAMPBELL,
U. S. District Judge

on December 19, 2002

* * *

[Testimony of Ronald Lee Carter]

[1920]

* * *

Q. You're only a phone call away, right?

A. Yes, sir.

Q. The problem is that if a school calls you and orally asks you a question, they cannot rely upon what you tell them orally, can they?

A. No, sir.

Q. And if you don't put it in writing, you're not bound by it, right?

A. I don't think of it in terms of bound. But I think of it in terms -- the term we use is that's what will give them the greatest picture because so many times people will ask a question over the telephone and doesn't have all the information in it, and then they will ask if the student meets the age rule, is he eligible, and then I might respond, yes, if he is not 19 on or before August 1st, but then people many

times take that out of context and don't remember the other rules.

So we ask them to put it in writing so that they will have something documented and something documented at our place.

* * *

[Testimony of Thomas McMillen]

[2027]

* * *

Q. Now in your comments you have objected to speech if it resulted in outcomes that you don't approve of,

A. I didn't specifically say that. I said --

Q. You don't like -- you don't like --

A. I didn't say that. I said, what I said was that --

Q. Let me --

A. -- this is not about speech.

Q. Let he ask you the question.

A. It's about time, place and manner. It is not about speech, per se.

Q. Let me ask this. Would you include in your prohibition the no recruiting ban a ban on truthful speech?

A. I would not -- again, I'm not going to answer that question because my position is that athletic recruiting is about undue influence, period.

Q. Isn't your concern really, Mr. McMillen, that the impact that the message is going to have in the recruiting contact on the students who receive the communication, that's your concern, isn't it?

A. That and the concern and the influence on the parents.

* * *

[Testimony of Ronald Lee Carter]

[2047]

* * *

Q. All right. Now let's pull up the Warrior letter, which is 104. Exhibit 104. Mr. Carter, can you see that on the board? **[2048]**

A. I can now.

Q. All right. Is this Warrior letter written by Coach Gary Rankin of the 1995 Riverdale Warrior football team in July before the season, is this letter undue influence under Section 21?

A. I can't, you know, just look at it, I mean you would have to have, again, all the information, all the facts involved, the things that started, who's it sent to, obviously it's from Coach Rankin, who's it sent to, you know, what are the situations. You would have to have all of that. But obviously there are some things in that immediately flags would go up. There are some things there that would say, Boy, there's a flag up.

Now I don't know that you necessarily say there's a violation until you got more information.

Q. All right. What are the flags, quickly?

A. Well, the Warrior. You know, I think the first thing again, it starts, not looking at the letter, but it starts with information you would have to have, who's it sent to? What's the circumstances? You know, give me all of the information. How is it occurring? Then you would start with, okay, now let's look at the things that are in the letter.

Now you want me to look at the letter?

Q. Yes. The first question is who sent it. The second **[2049]** question is what does the communication say.

A. Who is it going to?

Q. What were the circumstances and the third thing is who was the letter going to, right?

A. Yes. And I think -- I mean those are things that just

come to me immediately. As you got into the conversation with the school people, there might be other things that would come up, but that's just on first blush.

Q. All right. I understand that.

This is from Coach Gary Rankin of the Riverdale High School team and that would be a red flag, number one, wouldn't it?

A. Yes, sir.

Q. Red flag number two is it is going out to the students before the enrollment date, right?

A. Yes, sir.

Q. Under the TSSAA rules?

A. Yes, sir.

Q. Which is the attendance day plus three, right?

A. That's correct.

Q. Okay. And the third thing that you pointed out is it's addressed to Warrior, in caps, exclamation point, which is this effort to embrace?

A. Reaching out because the students aren't going to become enrolled and treated as a student at that school until they **[2050]** have officially gone through three days of school or three days of football practice, whichever one comes first. In this particular case I think it's the football letter.

Q. What about the letter or red flag or violations of Section 21?

A. Well, you know, then I think it's just sort of that it's totality. I would have to see.

Q. Let's read it sentence by sentence.

A. I would like to take this opportunity to welcome you to the 1995 Riverdale Warrior football team.

Obviously the flag would come because here we go again in the total context because the students are not students at Riverdale school yet.

Q. Okay.

A. We're looking forward to the upcoming season with great enthusiasm and high expectations. Our opening game with Smyrna is a little over eight weeks away and we must

be totally committed to the task ahead of us. The Riverdale High School --

Q. Let's talk about the second paragraph. Is there anything in the second paragraph that is a red flag for undue influence?

A. Well, you don't see the personal reaching out there as much. I think the pronoun changed to we are looking forward to and all that kind of things from the standpoint again **[2051]** it's within the context of what's there. But, you know, I don't see it just jumping like the personal pronoun that when you start speaking to kids individually it comes out a lot, but, again, there's some concerns I guess you would say as you start through that paragraph there.

Q. It starts we are together, we're looking forward with great enthusiasm and high expectations. You're a part of us, opening game is going to be a challenge. We have to be dedicated. It's kind of pumping up the team?

A. You would have to -- again, it's like you would say you have to look at everything. But could it, could be a possible violation, yes.

Q. All right. What about paragraph three?

A. Riverdale High School's motto is commitment to excellence. That is what we strive for this season. With your commitment and dedication, we will achieve our goal of being the 1995 region -- I guess that's region four of region five A champions on the way to the state championship.

Q. What about that paragraph?

A. I think the only thing that sort of jumped at me when I read it when you get into the second sentence, Your commitment and dedication, you know, the your there.

Q. Okay. Paragraph about the physicals?

A. Monday, July 4th, Dr. Johns and staff will give **[2052]** physicals free of charge from five to eight at Riverdale. There's nothing there. That's just information.

Q. Is it okay for the school to give free physicals to the students?

A. Yes, sir.

Q. Is that not an inducement?

A. No, sir, it's done all over our state. There are very few schools -- I can't even think of a school right now that doesn't have -- that doesn't have some set up where physicals are given free.

Q. Free physicals are okay, not a violation?

A. Not a violation.

Q. That's not in the rule?

A. In what rule?

Q. In Section 21.

A. No, sir. No reference to physicals in Section 21.

Q. All right.

A. Please complete the enclosed form and bring up it with you the day of physicals.

I think that only one in the context again that you would have to have more information on who's it going to and so on.

Report directly to Riverdale High School locker room, all players are --

Q. That's pretty mandatory, isn't it? If I have learned **[2053]** anything in this case, report directly to the Riverdale High School football locker room?

A. Yes, sir.

Q. Thou shalt do that. That's a red flag, isn't it?

A. Yes. I think that's -- let me go back.

* * *

A. Again, I think you would have to look, you know, you got to get it all in the context of all the information you would get when you were talking with someone.

Q. All right.

A. Then all players will report to practice on Tuesday July 25th, 1995, at four to eight. I don't see that in any major thing, the last statement. I think that's very much like the first or the second paragraph that when the physicals will be.

Q. What about, See you soon, Coach Rankin?

A. Again, I think it could be referencing back to the total thing of what have we got, where is it going, all those kinds of things. **[2054]**

Q. All right. Every school in the state sends that letter or a letter like that out, don't they?

A. No, sir.

Q. This is very unusual?

A. I don't know. I mean I don't put it context of unusual, but I would say, you know, I can't --

Q. Isn't this normal and appropriate?

A. Is that letter normal and appropriate, not necessarily, depends on so many factors.

Q. Okay.

A. I mean that's -- I stated. You have to have more information.

Q. All right. Would the Warrior letter be a Section 21 violation if it were sent to tenth graders, just the past players, ninth graders who were, in fact, enrolled at Riverdale High School?

A. Wouldn't see it as much of a problem.

Q. Why not?

A. Well, if they are in school there, they have been on the Warrior football team the last year, you know, I think again, you would look at it as total context. It went to all the kids on the Warrior football team last fall that was at Riverdale, then it doesn't rise to the level -- I think as you start --

* * *

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

[Caption Omitted in Printing]

TRANSCRIPT OF PROCEEDINGS – BENCH TRIAL

VOLUME VIII of Ten

BEFORE THE HON. TODD J. CAMPBELL,
U. S. District Judge

on December 20, 2002

* * *

[Testimony of Ronald Lee Carter]

[2105]

* * *

Q. Now when the transcript says they are subjective, you were referring to the terms normal and appropriate and the terms undue influence, weren't you?

A. Well, from just what I have read, I mean I -- I really would want to read the total thing. But I mean, yes, sir, that would have been the terms I'm referring to. I mean subjective in the sense that I've got to take, in this particular case, because I'm sitting in the chair of the executive director, the executive director has got to take evidence, make decisions, and that decision is subjective in terms of that's the person's going to have to make it. That's my reference to subjective. **[2106]**

Q. Okay. Now, Mr. Carter, you heard Morris Rogers the other day, the Board of Control member, saying that --

and he said this a number of times -- you know, if you have got a question about the recruiting rule or any other rule, really, but we're talking about the recruiting rule here, the best thing to do is to call Mr. Carter, he's only a phone call away. You remember that, words to that effect?

A. Yes, sir.

Q. All right. And you have told school people all over the state that if there are any doubts, any questions in your mind about the interpretation of the rules, pick up the phone and call, --

A. Yes, sir.

Q. -- right?

A. Yes, sir.

Q. And you answer those telephone calls, right?

A. Yes, sir.

Q. Okay. And you will give advice over the telephone, you will say this, or that or whatever, right?

A. Yes, sir.

Q. Okay. Now none of that advice is binding on you, right?

A. Yes, sir.

Q. And the school people know that, don't they?

I mean they know that you try to tell them what's correct, you know, in the telephone conversation, you try to **[2107]** give them good advice, but it's really not a binding, official binding statement on behalf of the TSSAA, the only way they get that is if you write them a letter and say this is, you know, what it is, is that right?

A. Well, I'm not sure I understand, you know, what the terminology of binding is, but --

Q. Suppose Brentwood Academy --

MR. COLBERT: Your Honor?

THE COURT: He's trying to clarify. Go ahead. He said didn't understand.

MR. BARFIELD: Let me try to clarify it.

BY MR. BARFIELD:

Q. Let's just assume that Coach Flatt had, before he

sent the spring practice letter out, he said, Oh, goodness, I got a question about this, this might be a violation of the initial contact rule, the no coaching contact rule, I better call Mr. Carter and find out. He picks up the telephone and says, Mr. Carter, can I send this spring practice letter out?

And you say whatever you say, Yes, you can, or, No, you can't.

The question is, is that binding on you?

Will you adhere to that or can you change your mind?

A. I don't know that I see it from the standpoint of **[2108]** changing my mind. I think I would start my first statement, the only thing that's binding is the rules.

Let me use an illustration because I do this all the time with schools.

Q. Okay.

A. Let's say that you call me about a student's birth date, okay? And you give the information to me and I go brain dead, and I give you the wrong answer.

Q. Okay.

A. And I tell you he's eligible, he's 20 years of age. And let's say you literally wrote the question back and again I somehow go brain dead, and give you a wrong thing.

Q. Erroneous information.

A. Okay. If you have played an ineligible player, by the rules you're still going to have to forfeit ball games because the school is responsible for adhering to the rules.

Q. Okay. Now that's a pretty clear example of -- the age limit rule is very different than the recruiting rule in terms of discretion, wouldn't you agree?

A. In terms of --

Q. Discretion?

A. Yes, sir. Yes, sir.

Q. The age limit rule is a good example of a rule that is what lawyers call a per se rule, that's a rule that, you know, if you're 19, you're over 19 as of such and such a **[2109]** date, you can't play, right?

A. That's correct.

Q. Okay. Take a look at the -- isn't any discretion involving that, you take a look at the birth certificate and the date that's in the rule and you make the decision and there's no discretion at all, right?

A. Yes, sir. We have two rules like that.

Q. Yes. Okay.

Well, what's the other one?

A. Semester rule.

Q. Semester rule, okay.

But this recruiting rule that we have been dealing with here is much, much different than those clearly specific, what I call, per se rules, right?

A. Yes, sir.

Q. Now on these discretionary rules, like the recruiting rule, if Coach Flatt had called you up and said, you know, Can I send the letter out, the spring practice letter out?

And you said, Yes, I think that will be fine, go ahead and send it out.

And he had sent it out to the boys, and, you know, then an investigation occurs and you say, Oh, goodness, I made a mistake, I shouldn't have told you that. This violates the undue influence rule.

And the fact that Coach Flatt relied on this oral **[2110]** telephone conversation in sending that letter out doesn't bind you to that position, does it?

You could still have the discretion to find that Coach Flatt violated Section 21 by sending the spring practice letter out, even though you had told him it was okay, right?

MR. COLBERT: Objection. It's irrelevant under the Sixth Circuit's decision.

THE COURT: Mr. Rogers put it into relevance.

Go ahead.

THE WITNESS: Yes, sir. I mean, again, it's the total thing, you know. You take all the information and then you would make the determination based on what you're relating the conversations that occurred, all of that would factor into the decision.

But the answer to your question, I'm still going to have to make a decision after all that's over.

BY MR. BARFIELD:

Q. All right. And you make a decision depending on all the circumstances contrary to the oral advice that you had given just in the hypothetical there? Are you going to --

A. I -- I mean it's --

Q. I guess the question is really, you have the discretion to make another decision that is contrary to what was apparently erroneous oral advice over the telephone, right? **[2111]**

MR. COLBERT: Your Honor, just for the record, I would like to make a standing objection on the same basis previously.

THE COURT: All right.

THE WITNESS: I guess theoritically, you know, just – or hypothetically, I guess, yes, you could.

* * *

[2136]

* * *

BY MR. BARFIELD:

Q. Exhibit 83. Talk about Exhibit 83. So we have the Hathaway, John Trotwood Moore situation that occurs in January of '92. And in April of '92 we have the Harpeth High situation. This is Exhibit 83.

Do you remember this, Mr. Carter?

A. Yes, sir.

Q. You remember this; but you don't remember the other one?

A. Well, I just remember when- the reference you made to Harpeth High because it's been mentioned a couple times, it just refreshed my memory there.

Q. All right. Good. Let's pull up paragraph one.

Now you write to Bill Brown, April 29th of 1992, that

this is in regard to a recent letter that I received from administration of Harpeth High School. The letter indicates that one of their staff members was at a Little League baseball game where a parent informed him that they had received two telephone calls from Carlton Flatt concerning their son, who is a fifth grade student at Kingston Spring Elementary School. According to the information given to the individual staff member, Coach Flatt had stated to the parents that their son's junior pro coach had recommended him as a football player. The parents **[2137]** were very flattered, particularly because they had made no contact with Brentwood Academy prior to the two telephone calls. In a telephone conference with Coach Flatt, he relates to me that he had called because the name was given to him by a former player at Brentwood Academy. Mr. Flatt stated that he told the parents they had been recommended as a family, that would be the kind in which Brentwood Academy would be interested and he would like to sit down and tell about Brentwood Academy.

Did I read that correctly?

A. Yes, sir.

Q. Okay. The next paragraph. Let me first make certain that we all understand. This is not a violation of TSSAA rule, right?

A. Yes, sir.

Q. As I'm sure you are aware, TSSAA rules state that these type calls would not be made at the seventh grade level or above. I read that correctly?

A. Yes, sir.

Q. Okay, the next paragraph, this is where you write, it is, however, a symptom of a much greater problem. The spirit and intent of the rules are very definitely violated in my opinion.

Now you're talking about the recruiting rules, right? **[2138]**

A. Yes, sir. Well, no, sir, I think it's the spirit -- I think it's the spirit and intent of all of our rules.

Q. All right. All the rules?

A. All the rules and what we are there for in terms of athletics.

Q. The obvious indication to the parent is that the call would not have been made if the student were not a football player. Again, we make football bigger than life, we are looking for solutions, we are a part of the problem.

That's what you wrote, didn't you?

A. Yes, sir.

Q. And you didn't do anything about sanctions of Brentwood Academy, because obviously it wasn't a violation there, right?

A. That's correct.

Q. All right. Now this was a coach initiating contact with a fifth grader, right?

A. Yes, sir.

Q. Or parents of a fifth grader, right?

A. Yes, sir.

Q. Okay. And that's the same kind of communication that we're talking about in this lawsuit, right? It's school initiated targeted communication?

A. Yes, sir.

Q. If Coach Flatt had done that to a student that was not **[2139]** in the feeder pattern, he would violate Section 21?

A. It doesn't have anything to do with feeder pattern.

Q. He violated it anyway, right?

A. He could violate Article II, Section 21, if there was undue influence.

Q. All right. Also violated, if he makes initial contact, with the parents?

A. Again, --

Q. Without them calling, right?

A. Again, you would have to take all of the whole thing into what's turning around, what's taking place. You got to take all the information and put it together, but I think the statement you have made, you start -- the flag starts going

up.

* * *

[2146]

* * *

Q. But the contact between the AD-coach and these kids is a violation of initial contact, isn't it?

A. Again, the initial contact is just one of the questions that -- the key is back to Article II, Section 21. What I'm going to have to do is determine whether all the factors that are there, I'm going to have to make a determination has there been undue influence.

Q. All right, I know that. But if the coach, the coach, if the coach contacts these kids not in the feeder pattern, it's also a violation of the no coach contact example, isn't **[2147]** it?

A. We don't have a no coach contact rule.

Q. Well, you did the first time you were over here in the case. You're saying you don't now, right?

A. We have a rule that states what it says, Article II, Section 21.

Q. All right. I'm talking about the commentary. It's a violation of the commentary, the no coach commentary for the athletic director-coach to contact these students too, isn't it?

You got a violation of initial contact and you have got a violation of the no coach contact example, don't you?

A. I do not -- I don't -- I just don't deal in the same frame of reference you're talking about.

Q. All right.

A. Initial contact is obviously a flag that goes up.

Q. All right.

A. But it -- you would then take it into all of it and your determination at the end is do you have a violation of Article II, Section 21.

* * *

[2148]

* * *

Q. The example, the free tickets is a potential violation of example number seven, and transportation is a violation of whatever the number is, right? Or potential violation?

A. No, sir. They are not violations of questions. You don't have violations of all of these questions and answers. All of those in number four, the question you're referring to, and that list are guides. You would take that and put that all into the context of what has occurred and then you got to make a determination, have you got a violation of the undue influence rule. There might have been transport -- I mean you do literally create the scenario that you have done and walk down it and there would be three sons and we have had that.

* * *

[2149]

Q. All right. Okay. Given the facts that I have given, is this a violation of Section 21, recruiting rule and the commentary?

A. I'm looking at the greens and the reds and the blues.

Q. All right. Let me summarize it for the record, okay?

The coach-athletic director at feeder school one contacts three athletes at feeder school number two, different feeder pattern, picks those students up and takes them, transports them to a high school game at feeder school -- at high school number one in the number one feeder pattern, and when they get to the game the students are admitted free of charge where the admission is being charged, and they are not -- those students are feeders to high school number two, but they are admitted free of charge to high school number

one, game at high school number one. Do we have a Section 21 violation, yes or no?

A. I would have to -- you know, obviously you would have to just start writing down all of these things. When I start with it, the schools are the members, what we have got to determine is has the school violated the rules? That's what has occurred, violated the rules? All of those are factors going into it. If I'm looking at what you're stating up here, I would assume I guess that the high school is -- I'm assuming it's a member of the association.

Q. High school number one is a member of the association. **[2150]**

A. Then I would think you would start -- when you start right there, it's almost in reverse of yours. You have got admittance to the game and then you're going to start bringing in all the factors here of -- it's almost in reverse of yours. Not the way you started it, but we're going to start with what's happening up here with the member school and then work backwards and all of those are going to be factors, but as you look at what you said, yes, sir, I hear violation.

But if I can do that and make a disclosure that says, But I got to have, you know, some more stuff. In other words, with the way you have done it, would it seem to me, yes, sir, I would have a violation. But feeder school, as you were going through it, I mean I understand what you're doing, feeder school just -- I just blind them out because it has nothing to do with it.

Q. What other facts do you need?

A. I don't know that I think of it in what all facts I need. I'm just looking for all the information that I can get before I'm determining what's occurred. Now I'm going back and, you know, in the discussions with the principal, we're going to start through, okay, let's move through it. Let's look at all the issues, everything that's occurred. What's happened. What's the process that's been put in place at the school. How are they doing? So all of these **[2151]** things are going to be factors also.

* * *

Q. Well, even if you -- even if you think it's a violation just based on what we have said here in the courtroom today, you still have the discretion yourself to sit down again and make a different judgment, right?

A. No, sir. What I've got the discretion to do, as I see it, I'm looking at all the factors. Then I've got to make a determination of has there been a violation. Where I see **[2152]** the discretionary part coming in is when I have now got to set forth the penalties. That's now going to depend on what's the school done. Are they taking action? Because we don't see disciplinary action from the standpoint of us zapping people or zapping schools. Disciplinary action to us is a working together with the school, dealing with a violation of the rules. So it's - so, again, I'm going to have to make judgment calls, yes, sir, over whether this is a violation of Article II, Section 21.

I'm going to also have to make a determination of what that penalty is going to be.

Q. Right. And you do have discretion not just on the penalty, you have got discretion on whether there's a violation or not, don't you?

A. I don't think very much discretion. I'm going to have to make a judgment.

Q. All right, a judgment. A judgment involves discretion, an analysis of these facts, is not like taking a look at the 19 year old age rule, is it?

A. No, sir, not at all.

Q. This is very different than that, isn't it?

A. Yes, sir.

Q. In involves discretion, the age rule doesn't involve discretion, right?

MR. COLBERT: Objection. It's irrelevant.

[2190]

* * *

Q. Where is that in the rule? Where is that in the guidelines?

A. It's not in the guidelines.

Q. How are they supposed to know that?

A. I would start with what you have heard here, I would start with common sense.

Q. If our common sense differs from Mr. Carter's common sense, we might run afoul of the rule?

A. I would pick up the telephone.

Q. Pick up the telephone and call you?

A. Yes, sir.

Q. Say, Mr. Carter, can we go to the community center, can we set up a table, can we go door to door and talk to kids and search them out?

A. I don't think I would ever get that call, but if I had some concern about going to the community center or going to, you know, whatever, in the context that we put it in and all of those, if I had any concern in those areas, yes, I would pick up the phone. I would probably pick up the phone and call.

* * *

[2212]

***

Q. Mr. Carter, are there schools in Tennessee that participate in interscholastic athletics that are not members of TSSAA?

A. Yes, sir.

Q. Can you name any of those schools?

A. By no stretch of my imagination could I name them all, but if I start in the corner, it would look like Washington **[2213]** College Academy, Kingsport Christian Schools, that I'm familiar with. School in the Knoxville area, I believe it's Grace Christian School.

In this area there would be schools, Holloway High

School, Webb School, Bell Buckle, Pioneer Christian, South Haven, Metropolitan Baptist. And I mean it's pretty -- it's obviously a pretty extensive list.

Q. Are there any other athletic associations in Tennessee that any of these schools are members of?

A. Yes, sir.

Q. What associations are you aware of that other schools, that schools in Tennessee are members of besides TSSAA?

A. I'm familiar that there are schools that are members of the Tennessee association, I'm not sure of the name, I think it's Tennessee Athletic Association of Christian Schools, their office or state office, whatever you want to refer to it, is in Chattanooga.

There is an association whose office is in Jackson, Mississippi, that is we referred to as Mississippi Private School Association, but it has schools in Louisiana, Alabama, Mississippi, Tennessee, I think Arkansas, so there are schools in Tennessee that are also members of the Mississippi Private School Association.

Q. All right. Are there any schools in Tennessee that you are aware of that at some point in time had membership **[2214]** contracts with TSSAA and elected not to renew those membership contracts?

A. Yes, sir. There would be quite a few.

Q. Can you name any of those?

A. In this area, Holloway High School, a former member, it's not a member now.

Q. Is Holloway public or private?

A. It a public school.

Q. Where is it?

A. It's in Rutherford County.

Q. And does Holloway High School participate in interscholastic athletics?

A. Yes, sir, they do.

Q. Why is Holloway no longer a member?

A. Well, Holloway High School, they were a member of

the association and they had had a number of violations, and there had been consequences of those violations obviously and then at some point, I don't remember the year, but just within the last couple of years the principal of the school just very simply felt at that time that their school could no longer comply with the rules of the association, so they very simply did not join the following year.

Q. All right.

A. They didn't -- I don't believe they withdrew. I think they just -- because we're on an annual basis, they just did **[2215]** not join the following year.

Q. Any other schools that you are aware of?

A. Webb School of Bell Buckle was a member for many years, then did not renew membership. And has not renewed membership.

St. Andrew's Sewanee was a member school, the association, then did not renew membership for a number of years and now has renewed membership again.

And another one in same category, Washington College Academy was a member -- one of our first independent school members, the thirties, and then did not renew membership at some point, then considered coming back but in meeting with the headmaster he just did not feel they could comply with the rules of the association and they did not join; have not joined at this time.

* * *

[2216]

***

Q. Mr. Carter, if Brentwood Academy chose not to sign a membership contract with TSSAA, would TSSAA have any authority to enforce its recruiting rule over Brentwood Academy?

A. No, sir.

Q. If Brentwood Academy chose not to sign a membership contract with TSSAA, would TSSAA's procedures for hearings apply to Brentwood Academy?

A. No, sir.

***

[Testimony of Curtis Masters]

[2228]

* * *

Q. All right. Let me have those articles back.

Very specifically, is Brentwood Academy for a recruiting rule or are you just asking for an unlimited no recruiting rule whatsoever so that schools can just go out and in an unlimited fashion seek all the student athletes around the state?

A. On behalf of our board and our staff, our entire staff, I can say unequivocally that we are for a recruiting rule that prevents inappropriate conduct.

At the same time, I think what we want is a rule where we can predict what it means, where it's going to be assessed or measured to us the same way it's measured to other people, where we will be able to anticipate the meaning of the terms in it, so that we can comply appropriately, and especially we're legitimately making every effort to comply. That that will be --

Q. Are you interested in a rule that allows the school to tell its story?

A. Of course.

Q. Now what's the motto of the school? **[2229]**

A. The motto of the school is Vivat veritas: Let truth prevail.

Q. And has this issue -- have these issues regarding alleged recruiting violations, has it damaged the ability of

the school in its dealings with its own students and its own parents?

A. I think the ability of the school to communicate with people in general about the mission of the school is central to the success of our school and any private school. The current students and parents obviously are there because they believe in the stated mission of the school to pursue and challenge the whole person, body, mind and spirit, to the glory of God.

To call that into question is to call into question the decision that those parents are making every year, every day, to provide their kids and entrust them to us, and entrust them to our leadership, to develop their character and their relationship with each other, their academic and physical and spiritual gifts and talents and inclinations, so, yes, it's caused us some real complications there.

* * *

[2240]

* * *

Q. Now let's talk about enrollment letters for just a moment.

Do you know whether or not most of the students whose parents signed these enrollment agreements in the spring of the year go on to attend Brentwood Academy?

A. Yes, sir. The vast majority of them do.

Q. By vast majority, can you put any numbers to that?

A. I think out of the hundred fifty-four students that came the last year, perhaps five or six didn't come who had signed up to come.

Q. Are you familiar with the TSSAA recruiting rule?

[2241]

A. Yes, sir, I am.

Q. Is the rule -- how does the TSSAA recruiting rule affect the ability of Brentwood Academy to tell its story?

A. First, let me be clear that the school continues to want a recruiting rule. I want to be very clear for the record that we have never attempted to not have a recruiting rule. That's not what this case is about.

Brentwood Academy requires for its life blood, not only in terms of financial relationships to its families, but in terms of its culture and community, on people choosing the school, and they can't choose the school without hearing about the school.

And one of the complications that has come out of this situation is that in our effort to legitimately communicate the opportunities available at Brentwood Academy, we have come under attack -- pretty vigorous attack I think it's fair to say for situations where we had no intent to do anything wrong, where we were not connected with what had happened, in these several cases, and the result has been that we have withdrawn even further from communicating.

A couple of simple examples, people have come into my office to ask to pick up a packet of information, that's happened early on in my tenure, to pick up a packet of information to take to a family that they had been talking **[2242]** with who was interested.

And I said to Diane at the desk there, Mark's secretary, I said, Can I get a packet of information?

And her answer was, No, no.

She was alarmed that I was asking. She said, You can't give it to them.

I said, Why not?

She said, They have to come to the admission office.

I said, Well, let me take you down to the admission office, you can pick up a packet.

She said, No, no. You don't understand the other family has to come in and pick it up.

So we've stepped back from even conveying information to people who're requesting it to give to someone who's expressed an interest because we are so careful that we not cross some line out there. We're not sure where that line is.

But we're afraid that if we do certain things it could put us into a situation of being in violation.

I think it's particularly significant that in the time I have been here my son's been involved in a soccer league, a Y soccer league, he's now 14. During that entire time that I have been at his soccer practices and games I have never once invited a person to come check out Brentwood **[2243]** Academy. A lot of great families there, people that I think would be a great fit for the school. I'm the chief spokesperson for Brentwood Academy, the chief representative of the community, and I have not even invited people to come check out the school, who I thought would be a great fit, not because I would have been doing it for athletic purposes, but because in the context of being at a soccer practice, someone could point a finger at us or accuse us of a violation.

So I have been afraid to mention that. Even when they are looking for a place to have practices, I didn't offer Brentwood Academy, mindful of situations where people have been involved in the sports relationship and simply because of the sports relationship there is a conclusion that the relationship with Brentwood Academy was for athletic purposes.

And so for me even in my direct role I have been afraid to communicate what I think is legitimate opportunities that Brentwood Academy has there.

Q. Is the school able to make school initiated targeted communications, telephone calls and letters, to prospective students and their parents under the recruiting rule?

A. No.

Q. What does the admissions office do in order to tell its story? How does it do it? **[2244]**

A. We do offer, open houses. We have admissions days. Certainly as people come into our office we record the fact that they have come, we give them a packet of information, we invite them to apply when they have come to get that information, give them a tour of the building.

Q. Do you answer the telephone?

A. Obviously, yes, sir.

Q. Get a lot of telephone calls?

A. We get some, yes.

Q. All right. People inquiring? Then you respond to those calls, right?

A. Yes, sir.

Q. But you can't initiate the calls?

A. No, sir. Not to my understanding.

Q. All right. The initial contact guideline or rule as a part of Section 21, does that create problems for you, for Brentwood, in telling its story?

A. Well, particularly where we're trying to convey a message that reaches a broad audience, obviously we can do mass mailings and so on, but to particularly reach into areas of the community where we find -- where we are looking for people who would make an impact in the dimensions of our school, it's very difficult to articulate those opportunities without finding people that might fit the profile of our school and inviting them to take a look at **[2245]** our school.

Q. Where is Brentwood Academy located?

A. On Granny White Pike, in Brentwood.

Q. Brentwood, Tennessee?

A. Yes, sir.

Q. Okay. For the record, would you describe that community for us? Everybody in the courtroom knows about it, but appellate judges may not know about it. Tell us briefly what the composition of the Brentwood, Nashville, general market or Brentwood Academy is.

A. Brentwood is among the more affluent communities in the Nashville area, I would say. Certainly large houses. I think someone said that it was -- Williamson County was either the tenth or maybe in the fourth highest housing average housing costs in the country. Couldn't tell you where the statistic was from, but that's what I was told when I came here.

For a school like ours that grew out of humble

beginnings with a commitment on the part of its headmaster, Bill Brown, to nurture and challenge each child and to reach the kids that other people aren't reaching, and to make a difference in lives of young people, the school's commitment was to not just be for a particular segment of the community but to be available to lots of people.

And his commitment to divesity has been I think **[2246]** sustained and thorough and admirable, and I certainly am doing my best to carry that forward.

Q. What kind of diversity is Brentwood Academy interested in?

A. Obviously we're interested in several different kinds of diversity. It's a school that's committed to kids of average and above average ability, and so we have a wide range of academic abilities represented. Certainly interested in socioeconomic diversity. That's one of the most difficult challenges we face right now, to allow people to see the opportunities, regardless of their financial resources.

Racial diversity is important to us. Ethnic diversity. Cultural diversity. We're certainly seeing Nashville's profile changing with the influx of various minority groups and we're interested in our school representing that broad diversity. As the board's intent in their long range plan recently revised said to see Brentwood Academy reflect the diversity of the body of Christ. So in lots of different dimensions we are interested in having diversity, diverse communities.

Q. All right. Do you know of any state, federal or local laws that prohibit or prevent high schools from telling their stories just for academic purposes?

A. No, sir. **[2247]**

Q. Well, what has the problem been with the recruiting rule?

How does it specifically hinder you in the ability to tell your story?

A. The recruiting rule and its interpretation I would

say is the hindrance. In one sense you could say, What's wrong with the rule against undue influence for athletic purposes? But as I have seen it applied in this case, particularly, undue influence can be any influence. For athletic purposes can mean just that the student has been an athlete at some point or becomes an athlete at some point. It's very unclear how the meaning has been interpreted has been interpreted. It's unclear how it will be interpreted.

The inconsistencies that I have noticed, not only in this case, but in other experiences around as I have looked back, have made it clear that it's not easy to predict what that rule means. And so not only are we restricted in specifics that the rule states, but we're obviously operating under the concern about what it might be, how it could be interpreted. And that's been a real cause of concern for us.

Q. Does that -- what's the effect of that?

Your not knowing exactly how the rule is going to be interpreted, what is the consequence of that on you and **[2248]** on the school?

MR. COLBERT: Objection. Irrelevant.

THE COURT: It goes to the substantive due process.

Go ahead.

BY MR. BARFIELD:

Q. You may answer.

A. The effect of not knowing how the rule will be interpreted makes us limit our communication even when we think it might be legitimate. There are things that we think would be perfectly appropriate that we're not doing because it may be construed by some as inappropriate. We don't want to be vulnerable to the sorts of accusations that have been leveled against us in the past.

Q. Now did you or does the school have a need, a continuing need for increasing the diversity in your student body, like Ms. Brasher testified about several years ago?

A. Certainly.

Q. Now is this need for diversity, is this just a mask, a method to really hide behind a real underlying desire to get

the best athletes out to Brentwood Academy or is it a genuine school concern?

A. It's absolutely not a mask. Our school is committed to a diverse experience, not just because we believe it's good for others to have opportunity, but because our school needs **[2249]** those various parts of the community represented for the good of the kids that are coming to the school. It's impossible for them to understand the world as they will see it when they leave our school and to be prepared, interact with people that have different ideas and different backgrounds, different experiences and expectations, without having that in the school setting.

We want that to be a part of our school setting.

Q. Has your own personal experience given you reasons to push for a socioeconomic diversity at the school?

A. Well, certainly. Absolutely.

Q. How so?

A. Well, I've seen people very well off financially, I have lived on both sides of that spectrum I suppose. I have lived in a house with a grass roof and a bark floor, and I have lived in very primitive conditions where we had very little, very little income, where we depended on the financial generosity of others for the basics that we lived on.

I couldn't have gone to school and high school, for example, without people's generous financial support for our family. And at the same time I have been in settings overseas where I was the richest person there. Where people deferred to me, simply because of the status of our family. Not that we were wealthy by any American standards, but **[2250]** because we had metal, which the people had never seen before, because we had matches, because we had technology that was unheard of by those people. So I have seen both sides of the spectrum there and I recognize that it's important for my kids and the other kids in our school to understand that who you are as a person doesn't depend on what you have or where you grow up.

Q. Does this need for expanding diversity, did it exist

not just four or five years ago but did it exist every year that you -- is it a consistent need or is it just a one-time thing?

A. Absolutely. I think one of the big issues that we face as a school, and in our community, I think this is consistent for the broader private school community, racial diversity is not as difficult to attain perhaps as socioeconomic diversity. The families that are well off, regardless of race, hear about our school. They have other people that know about private schools, they check out private schools as a part of the normal process that families go through when their kids are growing up. But families from lower socioeconomic circles, people who don't move in environments where private school is a usual option, haven't heard of our school, whatever their racial background, and it's very difficult to find ways to let them know of the opportunities that are available at a place like **[2251]** Brentwood Academy.

Q. Do you have need based financial aid that's available every year?

A. Yes, sir, we do.

Q. What percentage of your budget is need based financial aid, roughly, or what is the approximate amount available?

A. The board has made a commitment to move that toward ten percent of the budget, but I think at this point it's six and-a-half percent or thereabouts. That's funded financial aid. That is, we're committed to raising the money to pay for the students that are there and that comes mainly through the annual funds and some small endowments as well as the parents association.

Q. How much money is that, roughly?

A. Something on the order of $400,000.

Q. All right. And you heard Ms. Brasher describe how the system for the distribution of need based financial aid, was that the correct way it's done?

A. Yes. In fact, we have, ever since I have been here,

put an application for financial aid in every admission packet, obviously that's expanded the numbers requesting at a special economic time like this, but rather than making it available only to those who ask, we felt like a part of this genuine effort to make people aware of the opportunity was to let them know from the start that financial assistance [2252] was available entirely on a need basis for people who qualified.

Q. All right. Do you know the racial composition of the four students that are at issue in this case, Kellogg, Curry, Davis and Eddy?

A. I believe I do, yes, sir.

Q. What are they?

A. Three of them were black and one, according to his father, is Indian. American Indian.

Q. What about the other nine students who received -- or eight students that received the spring practice letter but were not declared ineligible basically by the TSSAA? Do you know what race those students are?

A. They were all white.

* * *

[2273]

* * *

Q. Well, what this says on your website that's communicated to anybody who gets on it --

A. That's true.

Q. -- is when they look on the financial aid section of admissions, what they see is the student's character, leadership, academic, and/or athletic abilities and potential are carefully considered, right?

A. Yes, it does.

* * *

[2275]

***

Q. You would also agree, would you not, that in sports competition, there has to be some system of maintaining the fair competition from one team to the next?

A. Yes. In some ranges, that's true.

Q. All right.

A. Again, the definition of fair becomes a key issue there, but certainly.

Q. And that's why we have got to have rules that everybody plays by, rules of the game, right?

A. Right.

***

[2287]

***

Q. Now you would agree with me, would you not, that Brentwood Academy is not under any compulsion to join TSSAA?

A. Compulsion in what sense?

Q. Well, there's no law requiring you to join TSSAA, is there?

A. No.

Q. You have heard Mr. Carter's testimony earlier that there [2288] were a number of schools in Tennessee that have athletics that aren't members of TSSAA and you know that's the case, don't you?

A. I do.

Q. So you would agree with me that the decision of whether to join TSSAA or not join TSSAA each year is Brentwood Academy's decision to make, right?

A. It is.

Q. And when Brentwood Academy makes that decision, it agrees that it will abide by the rules and the decisions of TSSAA, doesn't it?

A. Yes. Actually it says that it's our intent to abide by those provisions.

Q. All right.

A. Certainly.

***

[2290]

***

Q. Mr. Masters, I asked you if -- if Brentwood Academy just doesn't agree with the rules, it just thinks that the recruiting rule is just too much of a burden for it to bear, given its commitment to socioeconomics and racial diversity, Brentwood Academy can choose not to rejoin, right?

A. Absolutely, yes, we could.

Q. Or if Brentwood Academy believes that the hearing process that the schools have adopted and put into the by-laws is unfair, it could just choose not to rejoin, right?

A. It could.

Q. There are also mechanisms in the TSSAA organizational set-up to have rules changed, right?

A. Yes, there are.

***

[2292]

***

Q. Now would you agree with me that if the public schools who predominate in TSSAA enact a set of by-laws or rules to serve the public school mission, if Brentwood Academy's [2293] mission and those by-laws conflict, Brentwood Academy is free not to join those public schools in that association?

A. Yes.

***

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

[Caption Omitted in Printing]

TRANSCRIPT OF PROCEEDINGS – BENCH TRIAL

VOLUME IX of Ten

BEFORE THE HON. TODD J. CAMPBELL,
U. S. District Judge

on December 30, 2002

* * *

[Testimony of Curtis Masters]

[2386]

* * *

Q. All right. All right. Do you understand that Brentwood Middle School is a feeder school for Brentwood High School?

A. I would think so.

Q. All right. Now Brentwood Academy has grades six, seven and eight on campus, doesn't it?

A. It does.

Q. And that's a choice Brentwood Academy has made, right?

A. Right.

* * *

[2387]

* * *

Q. Okay. Now my question is is there anything that you [2388] understand the Brentwood High School coaches can do in the way of contact with the kids that are zoned to go to that school already that Brentwood Academy coaches can't do with kids who're in the middle school grades at Brentwood Academy?

A. No.

* * *

[Testimony of Bill Brown]

[2398]

* * *

DIRECT EXAMINATION

BY MR. COLBERT:

Q. You are Bill Brown and you were one of the founders and the original headmaster at Brentwood Academy, correct?

A. Yes, sir.

Q. And you were the headmaster from when to when, Mr. Brown?

A. Well, actually 1969, we started the school, and we opened the doors in '70 and then I retired in the year 2000.

Q. All right. So you were the headmaster back in '96, 1996 and 1997, at the time of these events that gave rise to this lawsuit?

A. Yes, sir. [2399]

Q. All right. Now Brentwood Academy as of 1996 and '97 and throughout your tenure as headmaster was a voluntary member of TSSAA, correct?

A. Yes, sir.

Q. Brentwood Academy joined TSSAA each year on an

annual basis, right?

A. Yes, sir.

Q. And paid a membership fee of a couple hundred dollars, correct?

A. Yes, sir.

Q. And Brentwood Academy was not under any compulsion to join, it did so voluntarily, correct?

A. Yes, sir.

Q. All right. And when Brentwood Academy joined TSSAA, it agreed to abide by the rules and decisions of TSSAA, each year, right?

A. Yes, sir.

* * *

[2400]

* * *

Q. Okay. Now one of the rules that you agreed in signing the card on November 14 of '96 and again on August 12th of '97, one of the rules that you agreed Brentwood Academy would conduct its program in accordance with was the recruiting rule, right?

A. Yes, sir. **[2401]**

Q. Okay. And you also agreed by this agreement to comply with the decisions of TSSAA, right?

A. Yes.

Q. And you knew at the time you signed these agreements that under the TSSAA constitution the Board of Control acted as the final appellate body within TSSAA, right?

A. Yes, sir.

* * *

[2409]

* * *

Q. Section 21, the recruiting rule.

Now if in 1997 Brentwood Academy couldn't live with this rule, if it was contrary to the school's mission, the school could have chosen not to join TSSAA that year, couldn't it?

A. Yes, sir.

Q. The decision about whether to have an interscholastic athletic program at all was Brentwood Academy's decision to make, right?

A. It was part of our philosophy of the athletic program, yes.

Q. Right. But there wasn't any law that you knew of that compelled Brentwood Academy to have competitive athletics?

A. No, sir.

Q. That was the school's choice as a part of furtherance of its own philosophy, right?

A. Yes, sir.

Q. And you know from being the headmaster of the school for some 30 years that neither the state Board of Education nor any other government agency has the power to require Brentwood Academy to play sports, or to join TSSAA, right?

A. That's right. But it is the only option that we had.

Q. Did you ever consider joining the Tennessee Athletic **[2410]** Association of Christian Schools?

A. No, sir. I don't feel like it would have been the place for our school really.

Q. Oh, okay. All right.

Did you ever consider playing independently like the Webb School in Bell Buckle?

A. Of course we considered it but, no, sir, it wasn't an option. You couldn't get a full schedule playing Webb every time.

Q. Well, I'm not suggesting you play Webb every time. You could play other schools, couldn't you?

A. If there were some others out there.

Q. If there were some others that would choose to play

you, right?

A. Well, if there were some other schools, yes, sir, that would play.

Q. All right. You know that the Webb School plays TSSAA schools, don't you?

A. In some sports, yes, sir.

* * *

[2440]

* * *

Q. Mr. Brown, you agree with me, do you not, that in interscholastic sports for there to be healthy competition between the schools, both sides have to have a fair chance to compete, you agree with that, don't you?

[2441]

A. Yes, sir.

Q. And I think your terminology actually was that there has to be a fair and even playing field between schools, right?

A. Yes, sir.

* * *

[2442]

* * *

Q. And you would agree, would you not, that for an organization like TSSAA that consists of a bunch of member schools that have joined together for athletic competition, keeping a fair level playing field is -- is a very important mission of that organization, you would agree with that, wouldn't you?

A. Yes, sir.

Q. Okay. If you don't have fair competition, you're not going to have competition at all before long?

A. That's correct.

Q. Would you agree with me, Mr. Brown, that when it comes to affecting the balance and the fairness, that athletic recruiting can affect the balance between schools in terms of -- in ways that other types of recruiting don't affect it? Let me see if I can help up out, okay?

Athletic recruiting, you would agree, would you not, serves the interest of the schools that recruit in ways that other types of recruiting don't because it helps them in competition against other schools?

A. If schools recruited athletically, yes.

Q. Yes. Yes.

A. I think that goes against the bent of every independent school in the state.

* * *

[2455]

* * *

Q. Okay. Now take a look, if you will, at Plaintiff's Exhibit 86, which I think I think you have, which is the July 29, 1997, letter from Mr. Carter. Do you have that?

A. Yes, sir.

Q. Okay. Now is it fair to say that based on the other exhibits that we have just finished looking at that there was a good deal of written exchange between you and Mr. Carter preceding this letter?

A. Yes, sir.

Q. All right. And there was also a meeting between you and Mr. Carter preceding this letter, wasn't there?

A. There was.

Q. Mr. Carter I think came out to Brentwood Academy and met with you and Coach Flatt there at the school, right?**[2456]**

A. Yes, sir.

Q. Okay. Now by the time you as the headmaster of Brentwood Academy got to the appeal hearing on August the 13th in Fayetteville and the subsequent

hearing on August the 23rd of '97, you knew what the charges were against Brentwood Academy, didn't you?

A. Yes, sir.

Q. Okay. And you knew because those charges had been clearly specified in Mr. Carter's correspondence from July 29th, right?

A. Well, yes, sir, the charges were, but I was struggling with the -- with the judgment.

* * *

[Testimony of Bernard Childress]

[2529]

* * *

Q. Mr. Childress, during your investigation weren't you also told by Jacques Curry that he was being recruited by David Lipscomb, Ezell Harding, BGA and Goodpasture?

A. He told me that he had received phone calls, yes, he did say that. He said, I received phone calls from people after ball games that said that they are from those particular schools.

And I asked him at that time, I said, Who're they, give me the names of some of these individuals.

And he had no names whatsoever. He said, I don't know who they were. They just identified themselves and said they were from those particular schools. He didn't have -- he didn't give me any names at all. He didn't even know for a fact that they were from those schools.

Q. But be specifically told you that he was being recruited by David Lipscomb, Ezell Harding, Battle Ground Academy and Goodpasture?

A. He told me he had received phone calls from people saying they were from these schools encouraging him to go to schools, yes.

* * *

[2530]

* * *

Q. Did you ever make any inquiries regarding to David Lipscomb? Did you ever go to David Lipscomb and say, Is anyone from your school recruiting Jacques Curry? Did you ever do that?

A. No, I did not.

* * *

[2531]

* * *

Q. You never went to BGA and went to them and asked has anyone made an allegation on behalf of your school is contacting Jacques Curry? Never went to BGA?

A. Did not.

Q. Have you ever gone to Goodpasture and said, We have received an allegation that your school is recruiting Jacques Curry, Jacques Curry's told us that, is that allegation true?

A. No.

Q. You never went to any of those schools?

A. Never went to those schools.

Q. Never followed up on any of those allegations?

A. Jacques Curry didn't give me any concrete information to go on.

Q. All right. Now he told you about this fellow Bart King, is that true?

A. That's correct.

Q. And did you consider the allegations about Bart King serious?

A. Did I consider -- wasn't for me to consider.

* * *

[2532]

* * *

Q. * * * Didn't you in your deposition say you thought they were were serious allegations against Bart King and Brentwood Academy?

A. Yeah.

Q. So the answer is yes then?

A. Uh-huh.

Q. All right. So you thought these were really serious allegations. And they all centered around or initially centered around this person Bart King, is that right?

A. That's correct.

Q. And at any point did you go and talk to Bart King and ask him, These 13 and 14 year old kids are making allegations about you?

A. No, I have no idea who Bart King is, no. I never - did not go talk to Bart King, and that's why you asked me about **[2533]** being I guess a private investigator. That's why I said I'm not an investigator because we deal with schools and when Mr. Carter tells us to go and talk to schools, and, you know, what he's asking us to do, and I guess our primary goal would have been and it is in any situation like this is that we go talk to administrators of the schools, we consider ourselves school people who deal with school issues, we want to do everything we can to work with the administration there at the school to prove those allegations wrong. We are not out trying to catch anyone doing anything. This is not a fun part of our job. I mean, no, we don't enjoy that. But when we -- you know, if Mr. Brown had said to us, Bart King did not do this, I know, you know, I know Bart King, I met him at the Rotary Club, I want you all to talk with Bart King, we would have taken our directive from the principal, the administrator of Brentwood Academy, we would have gone back, we would have been

glad to talk to him, but as far as trying to find Bart King's house, and go to him and talk to him in his home, that's not our job.

* * *

[2534]

* * *

Q. The burden's on the school you're investigating to tell you who you should go out and interview if you want the investigation to be complete and accurate?

A. We told Mr. Brown we will talk to anyone, we will talk to asyone you want us to talk to. And Mr. Carter instructed us, It doesn't matter how much time it takes, if he really felt, Hey, Mr. King is a person that I want you to talk to, then it happens all the time, principals tell us, Hey, you all come back on such and such a date, I'm going to have that individual here. And we are going to sit down and talk about this situation. We'll get to the bottom of it. That's what we would have been glad to do.

Q. So it's fair to say then the burden is on the school you're investigating to provide exculpatory information, otherwise you will go on whatever teensy bits and pieces you decided to get?

A. We go on information that's being true? Is that what you're saying?

Q. If I understand you correctly, what you're saying is you will go and interview whoever Mr. Carter tells you, you'll go and interview whoever Mr. Carter tells you, and if there are other people out there that will show that the school is innocent, even though they am obvious, or obvious people like Mr. King who came up over and over, you won't actually **[2535]** go out and interview them unless the school that's accused comes forward and says, Please, Mr. Childress, go talk to this obvious person and ask them if all those allegations are true?

A. I'm not going to talk to anyone unless Mr. Carter tells me.

Q. So it all centers around Mr. Carter, is that accurate?

A. I'm going -- I'm going to take my directives, if he tells me who you need to talk to, then that's who I will go talk to.

* * *

Q. Now Brentwood Academy -- TSSAA could punish Brentwood Academy for the actions of Mr. King even if King had no connection or affiliation with Brentwood Academy, correct?

A. About the rule? You asking me what the rule says?

Q. I'm asking you if the TSSAA could punish Brentwood Academy for the actions of Bart King even if he had no connection whatsoever to the school.

[2537]

* * *

Q. Let's take a look at your deposition at page 58, lines six through 25.

You said, Question, So even if -- even if Mr. King had no connection whatever to Brentwood Academy, if he wasn't a teacher there, wasn't a coach there, didn't have any connection there, huh, had no connection whatsoever, if Mr. King offered something of value to Jacques Curry in order to induce him to go to Brentwood Academy, do you think that would be a rule violation, a violation by Brentwood Academy?

You answered, Yes. I think it would be a rule violation.

Do you remember saying that? **[2538]**

A. I don't remember saying that.

Q. You agree I read your sworn deposition accurately?

A. Yes. I can read, yeah.

* * *

Q. All right. So you would agree it would be very important for you to know whether or not King were connected to Brentwood Academy or not?

A. Yeah.

Q. All right. And how did you determine that Brentwood Academy was connected to Mr. King?

A. I didn't determine it.

Q. You didn't determine it?

A. I didn't determine. Wasn't my job to determine whether Mr. King was connected to Brentwood Academy or not.

* * *

[2542]

* * *

Q. Now when you gave your deposition and you conducted this investigation, you believed that it was a violation for Brentwood Academy of the recruiting rule for kids who weren't zoned to Brentwood Academy to go to Brentwood Academy's spring practice, isn't that true?

A. I remember making that statement, but I also remember correcting it.

Q. In fact, you did correct it, didn't you?

A. Uh-huh.

Q. After you had a break in your deposition, you came back and told a completely different version of your interpretation of the recruiting rule, a hundred eighty degrees' opposite, isn't that true?

A. I made a mistake. Yeah.

Q. So before the break in your deposition you got up there in your deposition and you said it's a violation for Brentwood Academy if kids who aren't zoned to the school attends their spring practice?

A. That's correct.

Q. And then you had a break, and you came back and said later, or much later on in the deposition, right after the break, you said, Oh, no, that's not a violation. **[2543]**

A. Yes. I made a mistake in interpreting that particular rule. Yeah.

* * *

[2544]

* * *

Q. Okay. Now part of you job is to interpret the recruiting rule, correct?

A. Yes, sir.

* * *

[2546]

***

Q. Okay. Let me direct your attention back here in your deposition. You were specifically asked about coaches calling you and asking for interpretations of the rule.

Do you remember that in the deposition?

A. I don't remember that. That was 1997. I don't remember **[2547]** that.

Q. Let's look at it. If you go to the page earlier, at the bottom of the page, please.

So if I'm a principal at school and I have a recruiting question under Section 21, can I call the TSSAA? Can I ask you, Hey, Mr. Childress, can you answer my question?

Answer: Sure.

A. Uh-huh.

Q. So part of your job and all of the other assistant directors and Mr. Carter was to receive calls and answer

questions about the interpretation of the recruiting rule, isn't that true, Mr. Childress?

A. Again, you're pointing out things that I said, sure, you call and ask that, but then I also on over in there I said if you want an official response, we are going to ask you to put it in writing to us and we are going to give you an official response in writing.

***

[2548]

* * *

Q. Now, Mr. Childress, before the break you suggested that Mr. King was somehow connected to Brentwood Academy. But in 1998 you didn't believe he was connected to Brentwood Academy in any way, did you?

A. In 1998, I didn't know whether Mr. King was connected or not connected to Brentwood Academy.

Q. Because you hadn't completed a thorough and accurate **[2549]** investigation, right?

A. I had done exactly what I was asked to do.

Q. Isn't it true, Mr. Childress, that in 1998, when you gave your deposition, you said that you didn't believe that Bart King was connected to Brentwood Academy in any way?

A. I don't remember.

Q. All right. Let's take a look at your deposition at page 194, starting at line 17.

Now who are the persons connected with Brentwood Academy?

Your answer, At that time I believe they said John Patton had helped. Well, was coaching middle school.

Question: Okay. Brentwood Academy. Okay.

Then your answer, Not connected with, at this point I believe they had already said that Mr. King was not connected with the school in any way.

Question: That's right. Mr. King. What about Kevin Armstrong, was he one of the persons not connected?

Answer: Not connected.

Now do you remember at that time saying that you believed that Mr. King was not connected to Brentwood Academy in any way?

A. I think it said -- what it said was -- said that Mr. King was not connected to them in any way. That's what -- if I said that, that's what Brentwood Academy had said that [2550] Mr. King was not connected to them.

Q. But you were being asked whether Mr. King was connected or unconnected, weren't you?

A. And that's why the school had said he was not connected.

Q. Oh. So you were playing a little word game there with them?

A. I wasn't playing a word game. That's what the school said.

Q. Did you believe the school?

A. I didn't have any reason to doubt them.

Q. Okay. All right. Now at the time you were conducting this whole investigation, you and Mr. Menees and Mr. Carter all believed that King, Armstrong and Patton were Brentwood Academy recruiters, didn't you? That was the pre-supposition that you were operating under?

A. Oh, what I had -- I was -- those kids told me that Mr. King was the recruiter for Brentwood Academy. Now you have to ask Mr. Carter and Mr. Menees what they sought. I don't know what they thought.

***

[2558]

* * *

Q. All right. Now speaking of singling out in this case,

the free tickets, if those kids who got the free tickets, those two kids who were singled out, if they had been in Brentwood Academy's feeder pattern, it wouldn't have been a recruiting rule violation, would it?

A. If they had been singled out and given tickets.

Q. Exact same case except they were in Brentwood Academy?

A. If they were singled out it would have been.

Q. Well, that's not what you said in your deposition.

A. Well, I was wrong.

Q. Let's look at your deposition. Page 180, lines 14 through 25.

You were asked, If there had been a feeder pattern and the students from Neely's Bend had been admitted at Hunters Lane High School free, that would not have been a violation of the recruiting rule?

Your answer, That's correct.

* * *

[2560]

* * *

Q. Let's look at page 125 of your deposition, starting at line nine and going to line 24. Do you remember being asked these questions?

Question: Okay. Can they send the printed material on their school?

You're being asked whether they can send out information to their school.

Your answer: Non-feeder?

Question: Non-feeder.

You said, No.

Okay. No printed materials?

Your answer, No.

Without a definite feeder pattern?

Right.

In a feeder pattern they can send the printed material, right?

You say, They can contact, yes.

Question: And they can contact them, right, in a feeder pattern?

Answer: If they have a definite feeder pattern?

Question: Right.

They can contact them, the school can contact the **[2561]** new kids, prospective students, right?

And your answer, Yes.

Was that accurate?

A. That's accurate as the way I answered the question then?

Q. Right.

A. Yes.

Q. So in 1998 it was your view that a school could send printed communications to a student as long as there was a feeder pattern, but if there wasn't a feeder pattern it was prohibited under the recruiting rule?

A. Well, --

Q. Is that a yes or no, then you can explain. Is that your view in 1998?

A. If what' what I said, yes.

* * *

[2562]

* * *

Q. Mr. Childress, in 1998 you were the assistant executive director of the TSSAA, right?

A. I was.

Q. And you're one of the five top executives of the **[2563]** organization? Yes or no?

A. Yes.

Q. One of your jobs was to interpret the recruiting rule?

A. That would be correct.

Q. Even you, even you at that time, before walking in here to federal court, but at that time you believed that there was a feeder pattern exception, and that there were some things that a feeder school could do which a non-feeder school could never do under the recruiting rule, isn't that true?

A. I believe there were things that usually occur in a -- where there were feeder patterns.

Q. But that's not what you said in '98, was it?

A. You got it up there, you see what I said.

Q. I'm asking you. That's not what you said in 1998, is it?

A. Apparently not.

Q. Your story's totally changed?

A. According to the way I understand the rule. I'm just giving you the way I understand the rule today.

Q. In this lawsuit?

A. I'm giving you the way I understand regardless of the lawsuit or anything, I'm giving you the way I understand the rule today.

* * *

[2568]

* * *

Q. * * * Now can you tell me where in this guideline, where in this guideline does it say that a principal can allow kids outside of its feeder pattern into his school for free?

A. It doesn't say it.

Q. As long as the other principal agrees?

A. You can read it like I can. It doesn't say it.

Q. It doesn't say it, does it?

A. Unh-unh.

Q. In fact, guideline number seven expressly forbids what you just now said would be okay, doesn't it?

A. No. Not the way that's -- not as my interpretation. Because what we have said in staff meetings that I have been involved in is that the principals are in charge of the schools, and we are going to always look at the entire situation, and the key is has undue influence, is undue influence being used to secure those kids to go to this school. And if the principals agree, then the principals are the ones that are going to be in charge and, you know, this would be something you would have to ask Mr. Carter. I said both principals agree, according to the way we have been interpreting the rule in the staff meetings, is if both principals agree, then he is going to probably talk to them and let them be aware, hey, look, you all run your schools, **[2569]** this is what you have decided to do, you may be just aware and talk about perception of what other member schools are going to say, but if both principals agree, I don't see him making that -- punishing a school, to make that a violation.

Q. So, in other words, Mr. Carter or whoever is enforcing the rule can totally ignore example number seven as long as the principals agree?

A. Principals are in charge of the school.

Q. So Mr. Carter can totally ignore the guideline number seven, if he feels like it?

A. He's not -- I don't know if he is totally ignoring it. He's giving the principals -- the principals is in charge of the schools.

* * *

[2571]

* * *

Q. What if you're not invited to those meetings? What if you're a principal at Brentwood Academy who doesn't come to staff meetings, how would you ever know that that's the way Mr. Carter decided that he is going to apply the

rule?

A. If you have that in your mind to do, best thing to do is put it in writing to him and ask him. Or pick up the phone and call him.

Q. In advance of what you do?

A. In advance.

Q. And --

A. That's what most people do.

Q. If not, because if they don't, they could run afoul of Mr. Carter, couldn't they?

A. Run afoul of Mr. Carter?

Q. Or the rule. They could end up violating the rule?

A. They could. They could.

* * *

[2575]

* * *

Q. Now this giving of the free tickets, would you agree that's a completely normal and appropriate thing to do for a coach to give tickets to another coach?

A. Yes.

Q. Nothing abnormal about that at all? Totally fine?

A. Yes.

Q. All right. Now, in fact, when you were conducting this investigation and trying to determine under the recruiting rule what was normal and appropriate, you knew absolutely nothing about what the normal ticket policies were across the state, did you?

A. No.

* * *

[2580]

***

Q. I'm asking, Mr. Childress, I'm asking you whether or not you made any attempt to find out whether any of the kids who got these letters if they were harmed by it, that's all I'm asking.

A. No, no.

Q. You didn't?

A. I didn't. I said I didn't.

***

[2591]

* * *

Q. Did you supply any of the information to your investigation, any of your written materials to Brentwood Academy?

A. No. To anyone from Brentwood Academy?

Q. Did you ever give any of the notes to Brentwood Academy?

A. Any of my notes? No.

* * *

Q. Do you remember Mr. Nebel getting up and over and over asking, please, just tell us who said these things, what we're accused of, what this is all based on? You remember him getting up there and literally pleading for some sort of information to look at and what, you remember that?

A. I remember Mr. Nebel saying, and I also remember people in the crowd screaming and hollering, just tell us what we did, just tell us what we did, and I can remember Mr. Carter's response, he turned the meeting over to

Mr. Brown and he does like he had done in previous hearings, and said, This is a meeting of school people, about a school issue, this is not a court of law. And he says, Mr. Brown, give you an opportunity to present anything that you have to **[2592]** present at this time. And he turned the meeting over to Mr. Brown, and I do remember Mr. Nebel saying that he wanted to, I guess, cross-examine or he wanted to talk with Mr. Menees and I during that particular time, and Mr. Carter then said, Well, Mr. Nebel, I want to remind you this is not a court of law, we're school people, dealing with a school issue, it's not a court of law, we're not here to cross-examine people.

Q. So Mr. Carter then absolutely refused to let you answer any questions posed by Brentwood Academy?

A. That was not our purpose for being there. Our purpose for being there, the way I said, was to give Mr. Brown an opportunity to tell their side of the story.

Q. Why didn't you give Brentwood Academy your notes? You knew that they needed them.

A. They didn't ask for them.

Q. You just testified they were begging for information.

A. They didn't ask for my notes.

Q. Mr. Childress, you knew that they were wondering what in the world this is based on. Did you ever think this is terribly unfair?

A. No.

Q. You didn't think it was?

A. I never thought to give them my notes. No.

* * *

[2593]

* * *

Q. You weren't allowed to answer Brentwood Academy's questions but you did answer all the questions in

the secret deliberations both in Nashville and Fayetteville, didn't you?

A. If any of those board members had a question when we went into deliberations, they asked me questions about what I had done or who I talked to, yes, I answered those questions.

* * *

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

[Caption Omitted in Printing]

TRANSCRIPT OF PROCEEDINGS - BENCH TRIAL

VOLUME X of Ten

BEFORE THE HON. TODD J. CAMPBELL,
U. S. District Judge

on December 31, 2002

* * *

[Testimony of Gene Menees]

[2629]

* * *

Q. All right. Does TSSAA have any policies relating to how investigations are supposed to be conducted?

A. No, sir.

Q. Okay. Does TSSAA have any policies about conflicts of interest or possible conflicts of interest in the way investigations are conducted?

A. No. sir.

* * *

[2642]

* * *

Q. Well, whether or not the phone call or the letters

were problematic would depend on whether it influenced Jesse to go to the school, wouldn't it?

A. I don't know about the letter or phone call that would have influenced Jesse to go to the school there. Only thing we were dealing with was Coach Flatt had sent a letter, followed up with a phone call, and that's what we were dealing with.

Q. Well, the letter and the phone call don't mean a hill of beans, do they, if they don't influence the kid to go to the school, right?

A. That's incorrect. It could still be undue influence because it could still be undue influence.

Q. Why?

A. In regard to the enrollment policy that we work under, that they were not enrolled at Brentwood Academy at that time, they were still enrolled at Neely's Bend Middle School so you could, you know, you could determine at that point, with me not seeing the letter, which I had not seen the letter at that point, but could be interpreted as some type of influence on getting young men or women to a school for **[2643]** athletic purposes.

The answer is yes to that question.

Q. Well, I'm confused. Does the letter and the phone call, do they have to actually result in influence or is it just an attempt at influence?

A. I guess it could be both.

* * *

Q. All right. Well, regardless, you didn't ask Jesse Kellogg whether the letter or the phone call had any influence on him whatsoever?

A. No, sir.

Q. Okay. In terms of trying to decide about whether the letter was undue influence, you had to look at the letter, didn't you?

A. Yes.

Q. You had to see what the content of the letter was,

didn't you?

A. Yes. **[2644]**

Q. And in terms of determining whether or not the letter was undue influence, the content was what mattered, wasn't it?

A. Yes.

* * *

Q. All right. Well, under the recruiting rule as you understand it, if a person is trying to encourage a child to go to a school for academic and athletic reasons, is that a **[2645]** prohibition under the rule?

A. What person?

Q. Any person.

A. Yes, it can be. Let's go back and use -- I'll just myself as an example of Davidson Academy. If I was encouraging baseball players to attend Davidson Academy, that would be against our recruiting rule.

Q. Well, wouldn't it matter why you're encouraging them to go there?

A. If it was to play baseball. Now if I use baseball -- if I use the academics to get to them with the baseball example, then it would still be defined as undue influence.

* * *

[2647]

* * *

Q. All right. You said you made notes or notes of your discussion with Kevin Armstrong and Jesse Kellogg?

A. Correct.

Q. And you gave those to Mr. Carter?

A. Correct.

Q. All right. Did you ever give a copy of those notes to Brentwood Academy?

A. Did I personally? No, I did not.

Q. Well, do you know if TSSAA ever gave a copy of your investigation notes to Brentwood Academy before the August 23rd appeal hearing?

A. I cannot answer. I don't know.

Q. You don't know?

A. No, sir.

Q. Y'all have a policy about whether or not investigation notes are provided to a school that's been accused of recruiting rule violations?

A. No, sir.

* * *

[2648]

* * *

Q. You don't tell them we have notes that are available for your review?

A. No, sir.

Q. All right. So a school may not know if you made notes, right?

A. That would be correct.

* * *

[2649]

* * *

A. Well, only thing we dealt was was the fact there was potential athletes that had an interest in Brentwood Academy that used a ticket to come into a game free, that's what we dealt with.

Q. But didn't the background ground circumstances matter about how the tickets had found its way into the kids' hands?

A. We did not deal with the intent or the background, we dealt with the action.

* * *

[2652]

* * *

Q. All right. Well, did you ever talk to Bart King?
A. No, sir.

* * *

[2653]

* * *

A. Well, basically what we did was we went to Brentwood Academy, I mean we went there initially, and then the letter with the questions came, and Bart King was mentioned. Obviously as a concern that we had turned in to us in regards to the middle school athletes. Then we're school people dealing with school people. I mean, we handed at that time -- we gave Brentwood Academy an opportunity to respond to the concerns that we had and Mr. King was one of the concerns. So we did not talk to Mr. King.

Q. I'm not sure that was an answer to my question.

My question was why didn't you talk to Mr. King?

A. I don't know the answer. We decided not to talk to Mr. King. I don't know specifically why we decided not to talk to him.

Q. Okay. You would agree with me, wouldn't you, that given that he was identified as this person who is possibly giving sneakers and jewelry and talking about cars and things like that to these kids that might have been a good thing to talk to him, wouldn't it?

* * *

[2655]

* * *

Q. You don't know whether y'all ever told him that's what Bart King had been alleged to be doing?

A. I don't remember that.

Q. All right. So you don't know whether they knew Bart King was doing that kind of stuff or not?

A. I do not know personally, no.

* * *

[2656]

* * *

Q. All right. You said just a minute ago that your only concern ultimately was that one of these tickets found its way into Jesse Kellogg's hand, right?

A. In regard to the tickets, yes.

Q. It didn't matter in the end, all the circumstances underlying that didn't really matter, did it?

A. Correct.

Q. Okay. So the totality of the circumstances really was not the focus, right?

It was just the fact the ticket made it into the kid's hand?

A. Correct.

* * *

[2659]

* * *

Q. Did you during the open part of those two appeal

hearings, the one on the 13th of August, '97, and the one on the 23rd of '97, did you ever present your investigative findings in sort of an open session or in front of Brentwood Academy?

A. No, sir.

Q. You did not?

A. No.

Q. Now I think you told me earlier they didn't have a copy of your investigative notes at that time?

A. They didn't have a copy that I'm aware of.

* * *

[2661]

* * *

Q. Okay. Now Mr. Childress indicated yesterday that so long as two principals agreed at two different schools that some things that might be undue influence under the recruiting rule won't be considered undue influence, is that right?

A. Well, no, that's not necessarily right. I don't know what Bernard said.

Q. Let me give you the example he gave yesterday.

A. Okay.

Q. The example he gave yesterday was if Mr. Masters, the headmaster at Brentwood Academy, calls up the principal at Brentwood Middle School and says, We're going to let in all of your football players for free at our next home game, and as long as those two principals agree that that's okay.

A. As long as two principals agree, that's correct.

Q. All right. And that's okay under the recruiting rule?

A. Well, it's okay as long as bringing them in free. I mean if both principals agree, the answer is okay.

Q. Well, where does it say in the recruiting rule that

because -- let me back up just a second. **[2662]**

Because if they don't agree that would be a problem, wouldn't it?

A. That's correct.

Q. Because --

A. Are you talking about Brentwood Middle and Brentwood Academy?

Q. Yes, sir.

A. Yes, sir.

Q. Because Brentwood Academy -- excuse me, Brentwood Middle is not a feeder school for Brentwood Academy, right?

A. Correct.

Q. All right. But as long as the two principals agree, we don't worry about the fact there is not a feeder pattern?

A. Correct.

Q. Okay. Does it say anything in the recruiting rule about that or in the interpretative commentary that as long as two principals agree we're not going to worry about all that feeder pattern stuff?

A. Are you talking about in the recruiting rule?

Q. Yes, sir.

A. No, sir.

* * *

[2663]

* * *

Q. But you have more liberties within a feeder program than you do outside of one, right?

A. That you have sonic more liberties, that's correct.

Q. There are things you can do within a feeder pattern **[2664]** situation that you can't do outside of one, right?

A. That's correct.

* * *

[2665]

* * *

Q. * * * Talking again just a second about the appeals hearings, the members of the Board of Control at both of these hearings got copies of your investigative notes, didn't they?

A. I don't remember. I really don't.

Q. Well, if some of those folks have testified in this case that they have --

A. Yes, then they did.

Q. You have no reason to doubt them, do you?

A. None at all.

Q. Okay. And if they said they had based their decision in part or in whole on your investigation findings, you wouldn't have a reason to doubt that, would you?

A. No, sir.

[Testimony of Ronald Lee Carter]

[2809]

* * *

Q. All right. Mr. Carter, is intent -- can you have a violation of the recruiting rule without an intent to violate the rule?

A. Yes, sir.

Q. How is that?

A. Well, first of all, I think you start with the fact that the vast majority of our people don't intend to violate rules. Just about all of your violations are unintentional. I probably could count on one hand the number of intentional acts that we have had over the course of time. So intent has absolutely nothing to do with violations. You can't -- number one, you can't read it. You can't start trying to figure out did they intend to do it, all of these kind of things.

We just deal with has the rule been violated. Intent only is going to play in is if we have an intentional act. The penalty is obviously going to be more severe. An example of an intentional act would be a coach playing a student, ineligible student under an **[2810]** assumed name. It's hard to look at that one and think that's unintentional. So intent is never going to be part of the consideration whether it's a violation, it will only rise to the level if in fact it occurred. It will stick out.

So the rest of the time, the rest of them, 99 percent of them we're not looking at intent.

* * *

[2832]

* * *

Q. Okay. Now when in 1992 and '93 did the state Board of Education send a communication over to the TSSAA and tell you, Here are a list of the state interests that we think **[2833]** are important in the recruiting rule and we want you to put them in your rule?

A. No, sir.

Q. Did the Commissioner of Education do that?

A. No, sir.

Q. Did anybody at the state of Tennessee do that?

A. State of Tennessee meaning?

Q. Meaning somebody on or about TSSAA. Somebody over at the big house. The governor's office, the Attorney General. Anybody over there?

A. No, sir.

Q. In 1984, let's just assume for a minute that's when the rest of these changes were made, in 1984, did anybody from the state of Tennessee Board of Education come to you all and say, Hey, here are the problems that we have got with the recruiting rule, here are the state interests, we want you to put in a rule that will enforce them? Did they

do that in '84?

A. No, sir.

Q. Commissioner of Education didn't do it either, did they?

A. No.

Q. The attorney general didn't do it either?

A. No, sir.

Q. The governor didn't do it?

A. No, sir. **[2834]**

Q. Nobody from the state did it, right?

A. No, sir.

Q. And you didn't have a study done either in 1984, did you?

A. No, sir.

Q. You didn't do it in 1994 either -- 1992, did you?

A. No, sir.

Q. You didn't go out and say, Look, we got a problem with high school athletic recruiting in Tennessee, we need to find out what the problem is and we need to fix it, let's do a study, let's find some surveys, let's get some information, let's get some data? You didn't do any of that, did you?

A. No, sir.

Q. Mr. Colbert gave you some books up here, didn't he?

A. Yes, sir.

Q. Those books are sitting up here. Now one of those books is Bragging Rights, right?

A. Yes, sir.

Q. Now Bragging Rights was written, copyrighted in the year 2000, wasn't it?

A. Yes, sir.

Q. Okay. So nobody in 1984 or -- in 1984 or 1992 considered that in connection with any changes in the recruiting rule, did they? **[2835]**

A. No, sir.

Q. Okay. Same thing is true with Game of Life, which was written in 2001, right?

A. I didn't look at the copyright on it, but, I mean --

Q. You want to look at it?

A. If you want me to.

Q. All right, I do.

The Game of Life, what's the copyright?

A. 2001.

Q. All right. So it's fair to say that no one in 1984 considered changes to the recruiting rule -- or 1992 considered that book, right? Hadn't been written?

A. Yes, sir.

Q. All right. Now let's try Beer and Circus. That's a 2000 book, by Sperber. Am I right about that?

A. 2000.

Q. 2000. Okay.

So pretty obvious that that book wasn't considered by anyone at the TSSAA in '84 or in '92 in considering changes to the recruiting rule, right?

A. That's correct.

Q. College Athletes For Hire, that's a 1998 book I believe. Check the copyright on that, if you would, Mr. Carter.

A. What's the name of the book? **[2836]**

Q. College Athletes For Hire.

A. I haven't seen that book. I'm not familiar with that one.

* * *

Q. Let's go to Friday Night Lights in 1990, by Bizzinger. That book was written in 1990, right?

A. Copyright's 1990.

Q. All right. So it dearly wasn't considered in 1984, was it? Obviously not?

A. No, sir.

Q. Okay. Now my question to you on 1992 and '93, do you of your own personal knowledge know whether the gentleman or ladies or whoever served on the committee with the recruiting rule whether they read and relied upon that book in making suggested changes in '92 and '93 to the

guidelines for the TSSAA rule?

A. I don't remember whether -- obviously wouldn't know whether they read it or not, but I don't remember it being a part of a discussion. [2837]

Q. Okay. One more is Raw Recruits. I think that again is copyrighted in 1990, right?

A. Yes, sir, that's correct.

Q. Okay. So you would agree with me, would you not, that the 1984 group that looked at changes to the recruiting rule didn't look at that book because it wasn't published, right?

A. No, sir.

Q. Do you, of you own personal knowledge, Mr. Carter, know whether or not the members of the committee that looked at changes to the recruiting rule in 1992 and 1993, whether they looked and considered the book Raw Recruits or not?

A. No, sir, I wouldn't know whether they read it or not.

Q. All right. Thank you.

I ask the witness to be handed Exhibit 83, if you would. It's the Harpeth School letter. I ask you to pull up paragraph two.

Do you have it?

A. Yes, sir.

Q. Okay. Now I want to call your attention, if I may, Mr. Carter, this is a letter you wrote to Mr. Brown of April the 29th, 1992. Look in the second paragraph, second sentence.

A. Yes, sir.

Q. And you wrote in 1992, As I'm sure you're aware, TSSAA rules state that these type calls will not be made at the seventh grade level or above. [2838]

Did I read that correctly?

A. Yes, sir.

Q. Okay. The TSSAA rules that you are referring to there included both Section 21 and the interpretative commentary, did it not?

A. Probably not good wording on my part in terms of what's there because the reference is obviously to the question that's not part of the rules, but, you know, reference is very simply state to the point that -- again the discussion is where undue influence is and what has taken place does not apply below the seventh grade level.

Q. But the reason, Mr. Carter, it's an unfortunate choice of words is because you have come in here and you have told one story earlier and you're telling another story today, isn't that true?

A. No, sir.

Q. Yes, sir. What about this? Now you have come in here early on in this lawsuit, you and your client and your lawyers took the position that these were rules, per se rules, that's interpretative commentary, per se rules that restricted your discretion to apply Section 21, right?

A. No. I think the reference you're talking about is that some of them -- as you look at them some of them by their very nature are going to be much -- much more of applying the rule. The example is the ineligibility of students. **[2839]** But when you get to the one that you talk so much about, question number four, it's talking about guides.

Q. But you were talking in 1991 about the TSSAA rules, you weren't making distinctions between the rule and the interpretative commentary, are you? Were you?

A. Yes, sir. I mean the rule is Article II, Section 21, that's our by-laws. The questions and answers don't matter what part of it is, is not the rule.

Q. I know it, but you didn't say the TSSAA questions and answers state that these type calls, you said that the TSSAA rules, and the reference to seventh grade does not appear in Section 21, does it?

A. No, sir.

Q. In fact, Mr. Carter, when you have come in here throughout the trial of this case, you have taken the position that it is all Section 21 and nothing is binding on you,

everything's discretionary, in the interpretative commentary, did I get that correct?

A. Can you just repeat the question? I mean –

Q. Yes. Isn't that the position you have taken in the trial in this case?

A. Would you repeat the question that you had at the beginning?

Q. Yes. Haven't you all come in here and testified three days for six hours and told us that Section 21 of the **[2840]** recruiting rule is all that really counts, everything else underneath it, the interpretative commentary is discretionary and it depends upon the totality of the circumstances?

A. Sure.

Q. I mean that's what you said?

A. I'm going to have to apply Article II, Section 21, certain parts of what comes under there are obviously going to be much more of a discretionary in the term you're using than other parts of it are going to be by the very nature of questions.

Q. But that position is something you didn't take back in 1992 when you were writing this letter, did you, because you were talking about the TSSAA recruiting rule?

A. I had taken the same position then.

Q. Going back just a minute to this committee in 1992-1993 that was considering –

A. Put this aside?

Q. Yes. -- considering changes to the recruiting rule, are you aware of that committee considering any documents or evidence that has been introduced into the evidence in this case in their decisions of their deliberations about the recruiting rule in '92-'93?

A. I'm not aware of any. I mean –

Q. The same thing's true in 1984, isn't it? You are not **[2841]** aware of any evidence, any documents that whoever considered the additions and whenever they considered them, questions one, two, three and four, you're not aware

of any evidence that they considered in looking at what changes to be made, what additions to be made to the guidelines, right?

A. No, sir.

Q. All right. Now I asked you about research just a minute ago but I want to ask a specific question about harms, okay, for just a minute?

Are you aware of any empirical research about the harms to students or their parents of athletic recruiting at the high school level?

A. Empirical research?

Q. Yes, sir.

A. No, sir. I'm not aware of any.

Q. Let me talk with you about the transfer rule for just a brief second. I understand the court's impatient with this, with this angle, but I want to ask a couple questions about it. It was brought up by Mr. Colbert.

In applying the transfer rule in Tennessee, over the last 20 years, is there an exemption for a transfer when the transfer is for bona fide academic purposes?

A. No, sir.

For bona fide --

Q. Academic purposes. **[2842]**

A. I never thought -- bona fide always is reference with bona fide change of residence, that's why it threw me for a minute.

There's not a change for what? What are academic purposes?

Q. Yes. Yes.

A. No, sir.

Q. So if you had a situation in which there was a transfer for academic reasons, but it was against the transfer rule because there were athletics involved, which would trump, academics or athletics?

A. Again, the transfer rule doesn't look at what motivates. The transfer rule doesn't deal with whether it's athletic reasons or not. The transfer rule just is applied

straight.

Q. Yes.

A. Now then what could occur is a school could apply for a hardship ruling in regard to any of our rules, so --

Q. Okay.

A.-- you could have a student that would be ineligible by the transfer rule, and then turn around and apply and be taken on a case by case basis.

Q. But it's true that the athletic -- the transfer rule applies in such a way that if a student transfers from school A to school B with an athletic record and they have **[2843]** to sit out a year so they can't play for a year, generally?

A. Well, no, sir. That's not --

Q. That's one of the restrictions on it?

A. No, sir, that's not really very accurate of the transfer rule.

Q. All right. The question that I really want to get at, I don't want to go into a discussion about the transfer rule, but I do want to get at this.

A. Right.

Q. The transfer rule does not, does not exalt academics over athletics, does it? It's the reverse? The transfer rule exalts athletics over academics, doesn't it?

A. No, sir, doesn't really exalt anything over anything. It simply says the student transfers to a school and has an athletic record in that sport or sports, depending upon how it does, then it's going to be -- he or she is going to be ineligible in those sports 12 months from their last participation date. So it's just a straight statement. It doesn't deal with what motivated the transfer or where the transfer's taken place or anything.

Q. All right. So if the student is transferring to a better academic school, or for better academic purposes, the transfer still wouldn't be allowed?

A. If the student had an athletic record, the student is going to be ineligible in the sports involved. Again, very **[2844]** rare that a student's ineligible in all sports for 12

months.

Q. All right. Let me go back to this committee in '92 and the committee, or whatever it was, in 1984, that considered changes and adopted changes to the recruiting rule.

Do you know whether or not either of those committees considered the non-speech speech alternatives for non-speech related alternatives for accomplishing whatever the recruiting rule purposes were deemed to be?

A. I don't remember that discussion.

Q. At either time?

A. No, sir.

* * *

[2855]

* * *

Q. All right. Now I have referred to a couple times the committees in '84 and '92. Now obviously the Legislative Council is the body that would initially consider changes to the constitution or by-laws of the TSSAA, right?

A. That's correct.

Q. Now do you know whether or not the Legislative Council at any time in the last ten years ever considered alternatives to restricting speech in looking at the recruiting rule?

[2856]

A. No, sir.

* * *

BY MR. BARFIELD:

Q. In fact, it is true, isn't it, that the Legislative Council has given no consideration whatsoever to how can we tailor

the recruiting rule to meet the requirements of the First Amendment, isn't that true?

MR. COLBERT: Same objection.

THE COURT: That goes to all issues.

THE WITNESS: There hadn't been any looking at changing it for any of the reasons that you have stated there.

BY MR. BARFIELD:

Q. Say again?

A. Well, your statement was that has there been any look at changes, we haven't changed the recruiting rule in -- well, I don't remember the last time. I think your reference is '92.

Q. '92.

A. So they have not looked at anything else.

Q. Okay. So it is true, isn't it, that the Legislative **[2857]** Council, the appropriate body of the TSSAA, has not considered any alternatives to restricting speech with respect to the Section 21, is that right?

A. That's correct.

Q. All right.

MR. COLBERT: Same objection.

THE COURT: Same ruling.

BY MR. BARFIELD:

Q. And if the law does require that speech restrictions be considered as a last resort under these circumstances, is it true that the Legislative Council has not considered speech restrictions as a last resort?

MR. COLBERT: Same objection.

THE COURT: Same ruling.

THE WITNESS: We haven't considered any changes to the recruiting rule.

* * *

[2861]

* * *

Q. Now let's talk about tickets for just a minute, a couple of short questions.

You agree that on the tickets that the evidence was that Brentwood Academy and Coach Flatt did not know that these tickets were given to students?

A. At the time, no, sir, I don't think -- yes, sir, you're correct.

* * *